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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

(WORKMEN'S COMPENSATION BOARD)

Thursday April 20, 1972

Afternoon sitting

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1 --- Upon resuming at 3:25 p.m.

2 THE CHAIRMAN: I call our meeting to order.
3 Counsel, are you ready to call your next witness?

4 Oh, we are not completed with this witness.

5 BOHDAN MARMASH, resumed:

6 MR. DONNELLY: Just briefly, I have been
7 asked by the solicitor for the Board to put two questions
8 to the witness: Firstly, did you do an earlier survey
9 through your firm that dealt with the Deputy Minister,
10 about 1967?

11 THE WITNESS: That's right.

12 MR. DONNELLY: This was the second survey
13 that was done, first at the Board but the second you did?

14 THE WITNESS: The first, sir -- the sequence
15 was first it was in 1967 and this dealt with the senior
16 public service, Civil Service. The second request was
17 from the Board to deal with the Board and staff positions
18 at the Board and subsequent to that there was an update
19 with a two year interval for the deputy ministers, Board
20 members and other senior positions.

21 MR. DONNELLY: The review of the Board and
22 the senior officials there, the report was sent to whom?

23 THE WITNESS: The report went to the
24 Treasury Board.

25 MR. DONNELLY: I have no further questions,
26 thanks.

27 MR. LAWLOR: Just the date of that second
28 report.

29 THE WITNESS: The report was dated April,
30 1969.

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1 MR. LAWLOR: And the updating?

2 THE WITNESS: Would you be more specific
3 what report you are referring to?

4 MR. LAWLOR: Well you said you did a second
5 one, a report on staff positions and then an updating
6 subsequently.

7 THE WITNESS: No, there is a distinction
8 that has to be drawn here. I acted as advisor to the
9 government on senior level salaries in 1967. At that
10 time the Workmen's Compensation Board for some reason was
11 not included in that analysis at all and in 1969 the
12 Workmen's Compensation Board came in and was joined with
13 the 1969 advice from salaries so I acted as an agent of
14 the government and the report on the Board's salaries --
15 I will be very specific, the three positions of the Board
16 and the executive manager, the recommendations on that
17 did not go to the Board. The first inkling they had about
18 this happening was an Order-in-Council. And I am sorry
19 if I gave the impression this morning that that was a
20 report to the Board.

21 Does that answer your question?

22 MR. LAWLOR: I am still not clear. You did
23 a W.C.B. position -- you used the word "updating" in
24 some context. Did you come back on a subsequent occasion?

25 THE WITNESS: No. The updating that I
26 referred to relates to the work for the then Treasury
27 Board on deputy minister's positions ---

28 MR. LAWLOR: I see. So really there is
29 only one report relevant to this Inquiry?

30 THE WITNESS: That is correct. So the

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1 | reason I wanted to make this clear is because subsequent
2 | questions this morning led me to believe that there is an
3 | impression that I was working every year on Board salaries;
4 | this is not correct.

5 | THE CHAIRMAN: Is the Committee satisfied
6 | now as far as this witness is concerned?

7 | MR. ALLAN: Mr. Chairman, I think you still
8 | have us confused.

9 | THE WITNESS: I am very confused, gentlemen,
10 | by the way the questioning is going because it doesn't
11 | seem to be leading to a point and I must say I have never
12 | been confronted with this sort of a situation before.

13 | THE CHAIRMAN: Perhaps, Mr. Marmash, you
14 | could outline again the steps and the different involvement
15 | as clearly as possible?

16 | THE WITNESS: The first report or the first
17 | work that we had done was in 1967 at the request of the
18 | Treasury Board to look at deputy minister positions and
19 | certain other Board level positions, senior public
20 | service in the Ontario Government. This work, I don't
21 | know/^{if} it's relevant stemmed from our work two years
22 | previously or the years previously in the federal category
23 | of the Federal Government. That report was completed in
24 | '67 and the Workmen's Compensation Board was not touched
25 | at all during that year. I had not met anybody of the
26 | Workmen's Compensation Board nor had I known anybody there.
27 | May I go on?

28 | THE CHAIRMAN: Yes.

29 | THE WITNESS: The report was finished and
30 | our relationship with the Ontario Government was finished

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1 in 1967 with that study. In September of '68, and I
2 don't know all the moves as to how it happened, but we
3 were engaged by the Workmen's Compensation Board to do
4 a similar study with them for the Board level positions
5 and for certain staff positions at the Board alone. At
6 that time we were not aware of any work coming from the
7 Ontario Government in general. That report was completed
8 in April and submitted to the Treasury Board. We did
9 not feel it was appropriate for the Board members to
10 receive recommendations on their own salaries.

11 I see a question on your face.

12 MR. DEANS: You do; right. My recollection
13 was the Board had ordered ---

14 THE WITNESS: That's correct.

15 MR. DEANS: Why would you send the report
16 to someone other than the person who ordered it?

17 THE WITNESS: There was a question as to
18 who should receive the report and because Board members
19 were involved that question was resolved by us sending
20 the report to the Treasury Board. It would not have
21 been appropriate for the Board to receive recommendations
22 on their own salaries.

23 MR. DEANS: It is appropriate for the Board
24 to receive anything they order. Now, who gave you the
25 authority to send it to other than the Board?

26 THE CHAIRMAN: Was this the wishes of the
27 Board?

28 THE WITNESS: Originally the client which
29 was Workmen's Compensation Board hired us.

30 MR. DEANS: Right.

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1 THE WITNESS: Now I was not the responsible
2 partner on the study for the Ontario Government in 1967
3 so I don't know how it happened that we got engaged;
4 all right? I can't answer that. The first report -- we
5 were at a quandry as to where to send the report. We did
6 not feel it was appropriate to dictate to the Board nor
7 did the Board at that time. However, the decision was
8 made to send it to the Treasury Board and that is where
9 it ended up. It was addressed to (Carl Brennan) at that
10 time Secretary of the Treasury Board.

11 MR. DEANS: Who paid the bill?

12 THE WITNESS: For that particular part of
13 the study the Workmen's Compensation Board paid the bill.
14 The reason for it was because other salaries were
15 involved; there were four positions that were senior, the
16 top staff and the three Board members and the other posi-
17 tions were purely Board jurisdiction.

18 MR. DEANS: What was sent to the Treasury
19 Board was only that portion of the three Board members?

20 THE WITNESS: Well at that time we were
21 confused as to who to send the report to and I don't think
22 there was any clear indication as to, you know, which
23 piece of paper goes where. But the end result was that
24 the report went to the Treasury Board. That is how we
25 were instructed to do it.

26 MR. DEANS: By whom?

27 THE WITNESS: The request came from the
28 Treasury Board.

29 We raised the question.

30 MR. DEANS: I understand what motivated it.

1 I'm not questioning that. I just am kind of wondering
2 why it is that the Workmen's Compensation Board orders
3 something from you and pays for it and you send it to
4 someone else. Not at the Board's request, but at the
5 request of the other person.

6 THE WITNESS: I cannot speak for what is
7 happening behind the scenes in the government agencies
8 or the government itself.

9 MR. DEANS: Neither can I, believe me.

10 THE WITNESS: What I can say is that we
11 raised the question and the answer came down, "Send it
12 to the Treasury Board," and that's what we did.

13 MR. ALLAN: Mr. Chairman, I wonder if I
14 might just make a suggestion that would help to clear this
15 up?

16 THE CHAIRMAN: Yes, Mr. Allan.

17 MR. ALLAN: I had difficulty in understand-
18 ing or feeling that proper action had been taken when
19 the Workmen's Compensation Board requested the study of
20 the Board members. Now I think that was the first mistake
21 and I can understand your feeling in not knowing whether
22 to send it to the Workmen's Compensation Board or to the
23 Treasury Board and I think you acted very properly in
24 sending it to the senior organization. I think that this
25 works itself out and I don't think that there is anything
26 -- but it seemed to me that when the Board, a body that
27 are appointed by Order-in-Council and responsible to the
28 Lieutenant Governor, that it was improper for the
29 Workmen's Compensation Board to engage you to protect
30 their own salaries.

1 I don't know, and don't want to get into a
2 discussion about it.

3 THE WITNESS: I'm sorry, I can't comment on
4 that.

5 MR. ALLAN: Well I'm not. But I think if
6 you take that for granted probably we could go on with
7 something else.

8 THE CHAIRMAN: You didn't complete your
9 summary here of events.

10 THE WITNESS: Oh, all right.

11 THE CHAIRMAN: We were at the 1968 study
12 done in '69.

13 THE WITNESS: Right. Towards -- I can't
14 remember -- the middle of the summer or thereabouts we
15 were asked by the Ontario Government to advise them on
16 what they should do two years had elapsed since our
17 last report, on what they should do in terms of senior
18 level salaries with the Ontario Government at which time
19 we advised them. From that time on -- I cannot speak to
20 what they have done, but what I have advised -- and we
21 have advised that the Workmen's Compensation Board's
22 senior level salaries being in the public arena, although
23 they are a separate corporate body should be related to
24 the Ontario Government and treated in the same manner as
25 the other civil servants, senior civil servants and public
26 civil servants were treated and that's the series of
27 events.

28 MR. DEANS: Sir, did you include in that
29 recommendation other matters including benefits, fringe
30 benefits?

1 THE WITNESS: No, sir, that was strictly
2 a salary study.

3 MR. DEANS: And when you recommended it
4 you simply said the salaries ought to be comparable.
5 You weren't talking about any other matter?

6 THE WITNESS: I did a very, very quick
7 perusal of the benefits for the purpose of establishing
8 whether salaries should be affected by gross differences
9 in the benefit levels. There were some minor differences,
10 but in my opinion they were not big enough to justify
11 a different treatment of salaries to compensate for the
12 different treatment of benefits.

13 MR. DEANS: Were you aware of what appears
14 now to be the fact that the Board by their own orders
15 altered the benefits from time to time?

16 You weren't aware of it?

17 THE WITNESS: No, I am not aware of it.
18 I am not competent to answer that question.

19 THE CHAIRMAN: Counsel, are we completed
20 with Mr. Marmash?

21 MR. DONNELLY: I have no further questions
22 of the witness, Mr. Chairman.

23 THE CHAIRMAN: You may be excused, Mr.
24 Marmash.

25 Thank you for being helpful to this
26 Committee.

27 MR. DONNELLY: Mr. Hamilton, please?

28 THE CHAIRMAN: (Swears the witness)
28 DOUGLAS HAMILTON, Sworn:

29 EXAMINATION BY MR. DONNELLY:

30 Q. Your full name, sir?

1 A. Douglas Hamilton.

2 Q. And your occupation, sir?

3 A. I am presently a Commissioner with
4 the Workmen's Compensation Board.

5 Q. And for how long have you held that
6 position?

7 A. First of April, 1970.

8 Q. And you were present in the Committee
9 room on the 5th of April evidence taken at that
10 time?

11 A. I was.

12 Q. And at that time, sir, you indicated
13 that you wished to have an opportunity to speak to the
14 Committee on matters that were stated at that time; is that
15 correct?

16 A. I did.

17 Q. Is that your immediate purpose now?

18 A. Yes, briefly.

19 Q. Would you please proceed, sir?

20 A. Right.

21 Mr. Chairman, members of the Committee, I
22 first want to say that I have known Mr. Jack Cauley for
23 many years, back I suppose from about 1948 or 1949 and
24 have had some association with him in one way or another
25 over the years, and I want to say here and now and re-
26 iterate what I said at a previous meeting on the previous
27 Wednesday that at no time have I ever consciously done
28 anything at all to harm Jack Cauley, and specifically I
29 want to state that I had absolutely nothing to do in any
30 manner, shape or form with his early retirement; I

1 consulted with no one, talked with no one about the
2 matter and had absolutely nothing to do with his early
3 retirement. I further want to state, Mr. Chairman, that
4 I at no time either sought in any manner, shape or
5 form the position that was offered to me as a commission-
6 er with the Workmen's Compensation Board in February of
7 1970, and any of the wrongs that Mr. Cauley has in his
8 mind are certainly not based on the facts as I know them
9 and my purpose briefly here today is an exercise which
10 I frankly abhor; it is something that I could very well
11 do without; but it touches very deeply on my reputation
12 in this community and it also, I think, touches very
13 vitally on my capacity to continue as an effective person,
14 trusted person, to administer the Workmen's Compensation
15 Act or, I might say, if the allegations are correct, to
16 seriously touch on my effective capacity to serve in any
17 trustworthy occupation in this community.

18 I further want to say that it was clear in
19 my mind at least that the allegations made against me
20 by Mr. Cauley to this Committee were allowed to be made
21 by this Committee and some of them are not according to
22 the facts and I think there is a great responsibility on
23 this Committee, after hearing any evidence that I may have
24 or any other evidence that they may want to bring, to
25 give me a complete bill of health in regards to my
26 reputation in this community.

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1 Now with that preliminary, and realizing
2 that Mr. Cauley did make ^{the} statement about me under oath,
3 calculatedly, which did in my opinion, not to those
4 people who know me but the ^{to} general public and those
5 thousands of people who I must serve as a servant of the
6 Workmen's Compensation Board, have some impact in the
7 daily press, and I would like as briefly as possible, if
8 the Committee will bear with me, to try to clear these
9 up for them to the best of my ability.

10 I will refer as I say as briefly as
11 possible to some of the allegations made by inference,
12 others made pretty factually by recitation and try to
13 point out by some evidence to the Committee that these
14 allegations are not based on fact but based on something
15 other than the facts.

16 Now, in 1965 some time in June -- I think
17 it is on the record -- that Mr. Cauley had a heart attack
18 and in talking about the heart attack he says that "The
19 second day I was in there (referring to the hospital)
20 word came out that the Workmen's Compensation Board was
21 no place for anyone with anything of a heart condition,
22 and what in the hell was Cauley trying to prove anyway,
23 he had been there long enough. Why didn't he get out?"
24 And you will remember, those Committee members who were there,
25 will recall that I was sitting very close to the gentleman
26 and he said, "Do you remember that, Doug?" And because
27 of this -- this is Mr. Cauley's words -- "Because of
28 this the Ontario Federation of Legislature set up a
29 welfare committee and they were disturbed as to whether or not
30 there was any truth in the word that I would or would

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1 not be going back to the Workmen's Compensation Board,
2 so they dispatched two of their Committee over to see
3 me." Now I don't know exactly how to interpret this,
4 but my interpretation is that I dispatched them there
5 and if that is the interpretation that the Committee
6 places on it I want to say I did not. In another part
7 you will note that he says, "Because of this visit the
8 Ontario Federation of Labour set up a welfare committee."

9 Mr. Chairman, I want to file with the
10 Committee a report of a convention which is the third
11 convention of the Ontario Federation of Labour dated
12 November 2nd, 3rd and 4th of 1959 and you will notice
13 as a part of this report that there is a welfare
14 committee report and there was a welfare committee in
15 the Ontario Federation of Labour not in 1965 as any
16 result of what Mr. Cauley did or did not do, but was
17 set up to do the job of the organization, and it is
18 on record as having reported subsequent years from '59
19 until the year I left the Federation in 1970. You will
20 see the report and I will file it with you, and I would
21 like to have these back because they are the only
22 copies I have and they are out of my records. That is
23 the first that I want to file.

24 ---EXHIBIT NO. 58 : Report of convention of Ontario
25 Federation of Labour dated November
26 2nd, 3rd and 4th, 1959.

26 THE WITNESS: Now further to this, each year
27 as these committees report to these conventions they
28 report as to their activity and they reported their
29 activity to the Ontario Federation of Labour convention
30 in 1965 of the welfare committee; I will read it in part;

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1 but you will note that there is no suggestion of anything
2 about the appeal tribunal, anything about getting rid of
3 Mr. Cauley, any reference, but I will read it to give you
4 an indication of what I think the feeling of the Committee
5 were at that time in relation to the problems that they
6 were having with the Workmen's Compensation Board and
7 their relationship with Mr. Cauley as such. This report
8 is a report of the convention which deals with the whole
9 year of '65 when the committee was reporting to the
10 convention. It says, "During 1965 the welfare committee
11 met on February 24th, June 14th, September
12 1st. Many matters connected with the
13 welfare work were discussed and appropriate
14 reports and recommendations made regularly
15 to the Executive Board and to the Executive
16 Council of the Federation. Earlier
17 representations have been made by the
18 Federation on the problems of industrial
19 deafness and radiation hazards. A reply
20 was received from the Workmen's
21 Compensation Board informing the Federation
22 that the matter was still under study.
23 Subsequently Mr. Jack Cauley was compelled
24 to take leave of absence due to ill
25 health, and it was therefore felt that
26 further discussion on these problems be
27 left until the return of Mr. Cauley to
28 active duty with the Board."
29 There is no suggestion here that he not go back to the
30 Board, that every intention was of the welfare committee

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1 and the Federation and such that Mr. Cauley would return
2 to the Board, and I simply file that as an indication
3 of the feelings of the welfare committee in the
4 Federation at that time, and this is the convention
5 of 1965, and I will file it for you with the same
6 understanding that I would have this returned.

7 ---EXHIBIT NO. 59: Report of convention of Ontario
8 Federation of Labour, 1965.

9 THE WITNESS: Now Mr. Cauley makes
10 mention in another section of the report and he indicated
11 that he came over to see me on February 5th of 1965 and
12 I looked back through my diary and found that December
13 5th of 1965 happened to be a Sunday and I was not in
14 my office on that day. But anyway, further in the same
15 paragraph he says, "Now Mr. Hamilton told Mr. MacDonald

16 and Mr. Legge that I went to him to have
17 him have the Federation oppose the new
18 system."

19 And I gather he means the appeal system,

20 "And let me say here if he has the courage
21 to look at me,"

22 And again he pointed to me in the hearings,

23 "It is a damnable lie and he knew it."

24 Mr. Chairman and members of the Committee,
25 I want to again repeat that I never at any time talked
26 to Mr. Legge or talked to Mr. MacDonald about the appeal
27 procedure prior to the resignation of Mr. Cauley, ever.

28 Then he goes on in a further paragraph
29 down on the same vein and he makes the point:

30 "Let's look at credibility. Let's take a

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1 look at how he became Secretary Treasurer
2 of the Federation, and why he became so
3 desperate in May."

4 And he went on to say:

5 "I will table a letter of the Canadian
6 Railway and Executive Association in a minute or
7 two. That's why he became so desperate.
8 I was supposed to be put out in the
9 fall of 1968,"

10 Cauley saying this,

11 "... the Federation was going to dump him
12 from office and he knew it. Everybody
13 knew it and he screamed and he screamed
14 and he screamed. That put MacDonald and
15 Legge in the position that I had to go
16 that month."

17 Now, Mr. Chairman and members of the
18 Committee, let us take a look at 1968 as far as the
19 convention was concerned and you will see whether or
20 not I was going to go or whether I had to go.

21 The convention of the Ontario Federation
22 of Labour was held in London, Ontario on November 4th,
23 5th and 6th of 1968 and at that convention I ran as a
24 candidate as the Secretary Treasurer of the Ontario
25 Federation of Labour and a gentleman by the name of
26 Mr. William Landridge ran for office from the Steelworkers
27 against me; there were 935 votes cast of which I received
28 543, Mr. Landridge 392 and I got 151 more votes than
29 Mr. Landridge and was elected Secretary Treasurer in 1968.

30 Then in 1969 which is the following year

1 Mr. Cauley left the Board in May or June -- I think it
2 was May of 1969. Following Mr. Cauley leaving the Board
3 in May of 1969 I went back to another convention, I
4 didn't look for his job, I didn't take his job, I didn't
5 seek his job; I went back to another convention. At
6 that convention held in the City of London on November
7 3rd, 4th and 5th of 1969 I was also opposed as Secretary
8 Treasurer of the Federation by a Mr. Gerry Frazier of
9 the International Brotherhood of Electrical Workers
10 in Hamilton. And there were 906 ballots cast; I received
11 564 ballots, Mr. Frazier 342 and I obtained 222 more
12 votes than Mr. Frazier in 1969. In other words, I
13 bettered my position in 1969 by some 71 votes. So how
14 could Mr. Cauley or anybody else conclude that the
15 Federation was ready to dump me either in 1968 or in
16 1969.

17 Do you want the figures, Mr. Secretary?
18 I can file them for you.

19 THE CHAIRMAN: They will be on the record.

20 THE WITNESS: Fine. These are subject
21 to ratification from the convention report that you
22 can pick up.

23 MR. GAUNT: What page is that you are
24 reading from?

25 THE WITNESS: This is simply notes from
26 a convention report that I will file but I can file --
27 there are two convention reports I have with me but 1968
28 convention and 1969 convention of the Federation, and if
29 it is so desired I can have those filed with the Committee.

30 MR. GAUNT: What page in the transcript?

1 THE WITNESS: This is not the transcript,
2 of
3 this is the morning collection/notes as I recollect them
4 from tapes and my recollection, but I think I am pretty
5 accurate with my assessment what was said.

6 The next issue that was the condemning
7 issue stated -- I will try to be as brief as possible
8 about this. There was a merger of the old C.I.O.
9 organization and the old A.F. of L. organization and
10 there were certain arrangement made between the inter-
11 change of officers to the two bodies and during this
12 course of change between the two organizations and
13 the merger of the two organizations, Mr. Cauley says,

14 "In Ontario Mac MacArthur was the president
15 of the Congress Federation. Under the
16 agreement reached by all parties he would
17 become president of the new. MacArthur
18 was leaving the organized labour movement
19 for another appointment so he was not
20 running for office. John Hancock who
21 was secretary of the old was then slated
22 to be secretary of the new."

23 Then he goes on to eulogize Mr. Hancock quite properly
24 and I have no quarrel with that, but he said the president
25 was to go to Dave Archer who was then working for
26 Larry Sefton of the Steelworkers in Hamilton. Now let's
27 take that sentence at its face value under oath to this
28 Committee. David Archer was never at any time slated to
29 be the president; Mr. Cleve Kidd was slated to be the
30 president from the old C.C.L. and eventually did. Mr.
David Archer never to my knowledge ever worked for Larry

1 Sefton or the Steelworkers Union in his life, as a
2 matter of fact he was the secretary or a member of the
3 Ontario Labour Relations Board from 1948 and was part
4 time secretary of the old C.C.L. Federation in conjunction
5 with that same job from 1948 on and he never filled either
6 of those positions.

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1 Then he went on to state, "As a result of
2 this John Hancox was home sick and nobody took up his
3 cause because it was part of the agreement that John
4 Hancox would be the secretary of the new federation
5 and up ends Doug Hamilton as secretary." Now, Mr. Chairman,
6 again I want to refer to what happened here. In the
7 merget convention held in the Royal York Hotel in Toronto
8 in 1957, I did not get a free ride in as the secretary-
9 treasurer of the Federation. There was an election held
10 at that time and I was opposed at that election by a
11 Mr. Peter Podger who was a member of the lodge 717 of
12 the Machinists' Union and the election was held; I
13 received 391 votes, Mr. Podger 223 votes and Mr. Hancox
14 was nowhere in the picture at all for the simple reason,
15 Mr. Chairman and members of the Committee, and in a
16 convention report of November 25th and 26th of 1955, as
17 I will file with the Board in a black engraving here, a
18 memorandum of John Hancox properly set out. He was dead
19 on September 14th of 1956.

20 How, Mr. Chairman, could I have connived
21 against poor old John Hancox to get elected at a con-
22 vention in 1957 when he was in his grave some six months
23 earlier?

24 I will file this with the Committee,
25 Mr. Chairman, with the same understanding that I will
26 have it returned.

27 --EXHIBIT NO. 60: In memoriam of John Hancox.

28 THE WITNESS: And now we come to another, Mr.
29 Chairman, an allegation which hurts me rather deeply, Because
30 of my long association with Ford Brand, it was alleged at
the last meeting that some conversation that Mr. Cauley

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1 had had in a restaurant or a bar or someplace, Mr. Ford
2 Brand was alleged to have said that I had sought his
3 job as chairman of the T.T.C. and I care not what that
4 conversation was or what Mr. Cauley thought it was because
5 I don't think it is important because Ford Brand and I
6 have been friends for many, many years, back as far as
7 1948 and I ran his campaigns for some eight years when
8 he ran for Board of Control and Mayor of the City of
9 Toronto. Mr. Cauley says under oath, "Well, Hamilton
10 had ideas. He wanted to be chairman of the T.T.C. so
11 he moved heaven and earth to try to prevent Ford Brand
12 from being appointed to the T.T.C." Whether he meant
13 appointed to the T.T.C. or appointed as chairman of the
14 T.T.C., the words say the T.T.C. but I would have assumed
15 or I deduced from that he meant Chairman,

16 Well, let's look at either one of the
17 equations. Ford Brand went to the T.T.C. on February 23rd
18 of 1960, three years ahead of me. I didn't know of his
19 going, I wasn't even consulted about his going to the
20 T.T.C. at all. But as I say, it matters not what the
21 conversation says but let us look at the record. I went
22 to the T.T.C. February 12th of 1963 and it was only to my
23 knowledge during the course of my stay at the T.T.C. two
24 elections. When I first went to the T.T.C., I went there
25 in conjunction with a Mr. Ralph Day who was presently
26 chairman of the T.T.C. and at that time there were some
27 people in the room, I suppose, who knew of the troubles
28 that had been taking place at the T.T.C. and Mr. Day
29 was sent up specifically to be the chairman. Prior to
30 that there had been an understanding over the years

that the T.T.C. elected their own chairman without any interference from the Metropolitan Council or any direction, but because of the turmoil, Mr. Day had been sent up to be chairman. Controller Brand and I who were friends, and Ralph Day who was also a very good friend of ours, but nevertheless, we divided on this issue and we decided that there should be a contest for the chairman and that the chairman shouldn't have been appointed at Metropolitan Council. I have in my position the meeting No. 551, of Tuesday, March 5th, 1963, a certified true copy of the minutes signed and sealed by the secretary of the T.T.C. who will be prepared to come here as a witness and verify the minutes if you wish, if these don't suffice this Committee as evidence, and I would like to read these in public, simply to put on record the two election incidents which I was involved with at the T.T.C.

"The election of chairman and vice-chairman:

The Chairman requested the General Secretary to assume the chair temporarily to conduct an election for the offices of chairman and vice-chairman for the balance of the year 1963. The general secretary called for nominations of the office of chairman, Commissioner Hamilton nominated Commissioner Ford G. Brand; Commissioner Downey nominated Commissioner Ralph C. Day, and on motion of Commissioner Downey nominations for the office of chairman were closed. Commissioners Brand and Hamilton voted for the election of Commissioner Ford G.

1 Brand as chairman, and Commissioners Day,
2 Dowdy and Walton voted in opposition.
3 Commissioners Day, Dowdy and Waldon
4 and Commissioners Brand and Hamilton voted
5 in opposition. Commissioner Ralph C. Day
6 was therefore elected chairman of the
7 Toronto Transit Commission for the balance
8 of the year 1963. The general secretary
9 called for nominations for the office of
10 vice-chairman and Commissioner Dowdy
11 nominated Commissioner Charles A. Walton
12 as vice-chairman, and Commissioner Brand
13 nominated Commissioner Douglas F. Hamilton
14 as vice-chairman. Commissioners Day,
15 Dowdy and Walton voted for the election
16 of Commissioners Charles Walton as vice-
17 chairman and Commissioners Brand and
18 Hamilton voted in opposition. Commissioner
19 Walton was therefore re-elected vice-
20 chairman of the Toronto Transit Commission
21 for the balance of the year 1963."

22 And this is a certified true copy of the minutes No. 551,
23 of the Toronto Transit Commission, held on Tuesday,
24 March 5th, 1963, with the proper seal, and signed by
25 the secretary, Mr. Pettit, and I will file this with the
26 Committee.

27 EXHIBIT NO. 61; Certified true copy of the minutes
28 No. 551 of the Toronto Transit
Commission, held on March 5th, 1963.

29 The only other election that was held, to
30 my knowledge at the T.T.C., in my years there from 1963

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1 to 1970 was held on April 2nd of 1968 and, again, I have
2 a certified true copy of these minutes, and it was for
3 the election of vice-chairman. "Chairman R. C. Day advised
4 the Commission that the replacement for
5 the former Vice-Chairman Walton left the
6 vacant office of vice-chairman and an
7 election to fill this office was necessary.
8 The Commissioner, R. C. Day, advised the
9 Commission that he would comply with
10 their wishes as to whether or not an
11 election should be held for the office
12 of chairman of the T.T.C. or vice-chairman
13 and on the motion of Commissioner D. F.
14 Hamilton (I repeat, motion of Commissioner
15 D. F. Hamilton) seconded by Commissioner
16 D. Smythe, the Commission unanimously
17 approved the election of officers of
18 Commissioner F. Brand as vice-chairman.
19 Commissioner Ford G. Brand was therefore
20 elected vice-chairman of the Toronto
21 Transit Commission."

22 Mr. Chairman, members of the Committee,
23 how you can interpret that to mean that I moved heaven
24 and earth to have Ford Brand either not appointed to the
25 T.T.C. or not elected to any office of the T.T.C. is
26 beyond my comprehension.

27 There is another reference here of which
28 I am not going to read it all but it is in relationship
29 to a visit that Mr. Cauley alleges that a Mr. Arthur
30 Gibbons made to me -- the dates were not spelled out about

1 this visit -- but I was purported to have advised Arthur
2 Gibbons something about the appeals system at the Board and
3 mislead some of the railroad brotherhoods in this
4 regard. I have had many conversations with Arthur Gibbons
5 over the years; I don't specifically recall having this
6 specific conversation about the appeals system at the
7 Board but maybe I did. But if I did, I want to know
8 digress just slightly to tell this Board what my position
9 has been constantly about the appeals procedure at the
10 Board from its very inception and that is that when I
11 approached from various sources about the various appeals
12 procedure, and as secretary-treasurer of the Ontario
13 Federation of Labour, I took the position that it was a
14 new innovation, that it was something that I thought the
15 government was trying to implement to improve the
16 situation and my advice to everybody was, "Let us leave
17 it for a year or two until we gain some experience. Once
18 we gain that experience we can make an honest assessment
19 of it and if it doesn't work then we should oppose it.
20 If it does work then we can live with it." I likely
21 told Art Gibbons that if I had the conversation because
22 I told many people that. Anyone who came in contact with
23 me with regards to the appeal tribunal at the Board at
24 that time, I took the position that it was an experimental
25 operation and I was quite prepared to live with it and
26 that is the exact position that the Federation took at
27 the convention. You must remember that there were many
28 who thought the appeals procedure was, as Mr. Cauley
29 described them, not to their liking. We also had a large
30 section of the Federation who were disgruntled and

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1 dissatisfied with the old system and were prepared to
2 try the new, and our convention with some 2,000 locals
3 and some half a million members scattered across the
4 province, we took the position that we would wait and
5 see what the position was vis-a-vis the experience which
6 we would have gained. Now that is exactly what happened
7 and it is exactly what we did and that is the position
8 that I have in that regard about that situation.

9 Now, Mr. Chairman, I don't want to go on
10 any longer. I don't think there are any other vital
11 points that I want to raise in this kind of presentation,
12 but I simply want to say, and I hope that this evidence
13 that I have put on the table today which I do reluctantly
14 because I didn't want to do it; I do it not to hurt
15 Jack Cauley in any way, manner, shape or form, I do it
16 to protect the reputation of Doug Hamilton; I do it
17 because I want to continue as a responsible officer of
18 this Board because I feel confident that I can make a
19 contribution to the work of this Board and that is my
20 only purpose for raising theseⁱⁿ discrepancies because I
21 think these prove pretty conclusively that any evidence
22 that Mr. Cauley gave at this Board has to be suspect.
23 Mr. Chairman, that is really the statement that I wanted
24 to make and it is as brief as I possibly can and it's
25 concise and to the point.

26 MR. DONNELLY: Q. Mr. Hamilton, you
27 indicated to me that as well as making your statement
28 and I take it now you have been given the full opportunity
29 to do that, sir, have you? You are finished what you
30 wanted to bring forward another point?

1 A. The only other thing, Mr. Chairman,
2 I would suggest that if there are any other questions
3 about whether I did or whether I did not -- I thought
4 this was made by Mr. Eberlee that I did not approach
5 them at any time about Mr. Cauley's resignation or I
6 did not at any time solicit the job, but if that is not
7 cleared up to the satisfaction of the Committee, I would
8 think that you should hear some evidence from
9 Mr. MacDonald or Mr. Legge or Mr. Bales or Mr. Eberlee
10 or anybody else who I have purported to have had con-
11 versations with vis-a-vis the two matters which I think
12 are really of substance and concern to the Committee,
13 and if the Committee sees fit to call these people
14 to further clarify that, I am satisfied in my own mind
15 -- Mr. Bales and Mr. Eberlee have cleared that up --
16 but if it's necessary to examine Mr. Day and Mr. MacDonald,
17 it may very well be that those two questions should be
18 asked them.

19 Q. Now, sir, before I move on, does
20 that give you a fair opportunity to make a reply to the
21 earlier testimony as it touched on you personally?

22 A. As I see it, yes.

23 Q. You also indicated, sir, that you
24 would be willing to offer such assistance as you can to
25 the Committee regarding the existing conditions at the
26 Board and answer such questions as they may have regarding
27 those conditions and how they might be improved; is that
28 correct?

29

30

1 A. I'm prepared to answer any questions
2 in any manner or form that may help or assist the committee
3 to find a solution to this problem.

4 Q. Doubtlessly, sir, there are members
5 here that would like to ask you questions and I think none
6 of us would seek to burden you with things that may have
7 been thought or said to have gone on at the Board before
8 your tenure, but I would like to direct your mind, if I
9 may, to the conditions as you found them when you went
10 and as you found them since you stayed there.

11 Principally there seems to be some area
12 in the members mind that there may be some discord on
13 the top levels of the Board and as a result of that
14 discord the function of the Board may be impaired or
15 the personnel resources of the Board may be depleted.
16 Can you assist us in any way from your own experience
17 during your term there, sir?

18 A. Well, I can only say that I went into
19 a situation that was new; I went into a situation where
20 I was fairly familiar that there had been some controversy;
21 I didn't know either of the two gentlemen that I was going
22 to work with too well. I had known Mr. Legge casually
23 previously; I had never met Mr. Decker. And over the
24 two years that I have been there we have worked out a
25 working relationship which is I think not altogether
26 satisfactory, but is one where considerable progress has
27 been made and one with which I hope we can make consider-
28 able more progress. But it has been slow because I think
29 in all fairness to Mr. Legge -- and now I think if we are
30 going to talk about Mr. Legge I think I should preface
these remarks by -- you can call me out of order if you

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1 like. My assessment of Mr. Legge is that he is a very
2 honest, very intelligent, very dedicated, very hard
3 working person who in the field of adjudication does
4 excellent work. I am very taken with any case we have
5 had in the adjudication field vis-a-vis claims that he
6 has a great deal of compassion for the workers and if there
7 is any benefit of doubt it goes to the worker and that we
8 have got along fine in that arena.

9 I think that he and I differ quite consider-
10 ably about administrative practices and procedures because
11 I think for the very fact that he has -- I don't want
12 to really put words in anybody's mouth, but I think that
13 he did run a one man Board for a period at best.

14 Q. Was there during your tenure, sir, that you
15 are speaking of?

16 A. No, before my tenure.

17 Q. And this is some information you think
18 you have about earlier conditions?
think he

19 A. Yes. And I find it difficult to
20 adjust to the kind of hard Board routine that I am
21 accustomed to in any organization, but we have made some
22 great strides in this regard as well.

23 Q. Do you have any comments, sir, about
24 the one man board conditions you say during your tenure?

25 A. Is there a one man board condition?

26 Q. You say you made great strides so I
27 understand you have improved, but do I take it that the
28 Board now operates effectively as a board, where all three
29 are taking part in Board matters and Board decisions or
30 is there still some room for improvement in that area?

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1 A. There is still some room for improve-
2 ment, there is no question about this. Not in the
3 adjudication field because I am satisfied, but I think
4 that there is still some room for improvement in the
5 administrative procedures. I don't think -- and I want
6 to make it perfectly clear here that as far as I am
7 concerned there is no great dissention at the Board. The
8 Board is operating efficiently we have an excellent staff; and
9 I think that if you take a look today that the
10 claimants in the Province of Ontario and those applicants
11 who continually come to the Board will tell you now that
12 the Board's service is as good now as it has ever been
13 in its history from the point of view of the people who
14 we have to serve albeit there are some problems
15 administratively.

16 Q. Mr. Hamilton, following up that
17 distinction you have drawn for us between the adjudicative
18 field and the administrative field, it seems to have
19 been the concern of some of the members that the attend-
20 ance by Board members at the appeal hearings has not
21 been adequate or proper certainly by Mr. Legge, that he may
22 have missed two-thirds of the meetings over a certain
23 period of time and can you make any comment or do you
24 feel free to comment about that, sir?

25 A. Yes. I think it isn't any secret and
26 I think he has valid reasons for so doing. I think that
27 quite frankly and quite honestly to you, I think Mr. Legge
28 is simply involved in too many other things and in my
29 humble opinion I think he is away from the Board too much.
30 Now it may be quite legitimately and maybe so, but I think

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1 he still is away from the Board too much.

2 Q. These I think are areas, sir, that we
3 have to be fairly careful in. When you say you think he
4 is away too much, do you know for what reasons he is away
5 or are you able to tell us what takes him away on these
6 occasions that you describe as being too much?

7 A. Not always, no. You know, I know
8 from time to time where he is, but I don't know always
9 where he is.

10 Q. And I take it -- the inference I get
11 is that it is business other than Board business you are
12 referring to, is it? Or do you mean Board business takes
13 him away from the premises too much?

14 A. Some of it would be Board business
15 or allied business, business which takes him to the
16 Canadian Association where he was president last year ~~to~~
17 takes some of / ^{his} time and this year he is associated with
18 the international organization affiliated with our
19 organization and a lot of it is taken up with legitimate
20 Board business, yes.

21 Q. Tell me, is that considered to be an
22 important function of some officer of the Board to more
23 or less correlate the function of the Board with industry
24 and almost in the field of public relations or explain
25 the operations of the Board?

26 A. Oh, yes, I would think so.

27 Q. And you spoke, sir, of the difficulties
28 in the administrative field, that are improving. Are you
29 able to assist the Committee as to whether this is some-
30 thing that has the appearance of being straightened out

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1 within the membership or must there be some outside inter-
2 vention or can you help us about that?

3 A. Well, let me go back and let me put
4 it into focus for you if I can, Mr. Chairman. I think I
5 have some material here that might be of some assistance.
6 Shortly after I was appointed to the Board, and I don't
7 remember now precisely -- I was appointed in April -- I
8 came on the job on April 1st, I took a heart attack on
9 August the 23rd and was away for some five weeks. I came
10 back to the Board and shortly after that I talked to the
11 then Minister of Labour, Mr. Bales, and told him that I
12 didn't think the administration procedures of the Board
13 were exactly what I would like to have seen them and he
14 prevailed upon me to go back and see if I couldn't work
15 out something that I thought would be satisfactory with
16 my other two colleagues on the Board, And I must say that
17 I got considerable co-operation from both of the Board
18 members in this regard and I put certain proposals to
19 them and I have a memo here to indicate to you some of
20 the improvements that we did make collectively during the
21 ensuing months which may be of some help and I will just
22 go over them quickly for you. There was the organization
23 of the weekly meetings which leaves us free on Mondays
24 for Board members to do other things, to move around the
25 Board and hearings were then scheduled for Tuesdays,
26 Wednesdays and Thursdays. We established a regular
27 agenda day for Tuesdays and then we left Friday kind of
28 clear to clean up our business; in other words, we
29 organized our week collectively so that we could pretty
30 well know when we could make appointments and how to and

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1 I thought this was very satisfactory. We worked out
2 an arrangement whereby the agenda meetings and the formats
3 of the agenda meetings were satisfactory to everybody.
4 We had the situation where we had the secretary of the
5 adjudication and the administrative stream together when
6 I went there and we separated these into two streams, we
7 put the adjudicative into one stream and the administrat-
8 ive into another. We upgraded the personnel department,
9 made it a front line department, our new director. We
10 implemented a new recording system so the reporting
11 of the various departments could be on our desk once a
12 week. And we had an understanding that as far as
13 adjudication was concerned that we would have three
14 Board members at hearings rather than two because I
15 don't like two people at Board hearings.

16 Q. May I interrupt you, sir, is that
17 presently the practice now to have three Board
18 members at hearings?

19 it is
20 A. Insofar as/humanly possible we do.
21 If it is an absolute emergency we go to two members, but
22 under normal practice we have three Board members at
23 hearings.

24 Q. And is that effectively being imple-
25 mented, sir?

26 A. Yes.

27 Q. I have been asked to inquire, sir, as to
28 which of the three Board members -- are these pro tempore
29 or the regular Board members you are speaking of, sir?

30 A. Well, it fluctuates of course. The
pro tempore member comes in when any one of the three of

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1 us for any reason are absent.

2 Q. Statistics could be shown if the
3 Committee wished to see it?

4 A. It could be shown in our records I
5 suppose wherever it may be, but I would think if you
6 go back through the records of the last six or eight
7 months that you will find that we have had very rare
8 two man Boards because if one of us is away the pro
9 tempore member comes in.

10 Now if I might just expand a little bit on
11 this. There has been an inference here throughout some
12 of these hearings that there has been no improvement
13 at this Board in the last year or two, that things are
14 just as bad as they were before. I want to say that
15 that is not so. These are some of the improvements that
16 we have made; we are constantly working to make other
17 improvements and I am sure that we will. But even without
18 these improvements I want to say to this Board that
19 this Board is a good organization in spite of all of its
20 fault, in spite of all of the picune little troubles
21 that you can pick about it, this is still a good
22 operation and serves the injured workman of this
23 province very, very well and we are trying and endeavoring
24 almost daily to make the improvements necessary
25 to make it function.

26 Q. Sir, it has been pointed out to the
27 Committee earlier that as a three man Board two of the
28 three members are able to be a sufficient majority to
29 pass a motion; am I correct in that, sir?

30 A. That is correct. According to the

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1 | legislation two are a quorum and they can do almost
2 | anything under the legislation, yes.

3 | Q. Is that any two or must it be the
4 | chairman and one other, sir?

5 | A. Any two.

6 | Q. They are equal in that sense, are
7 | they?

8 | A. Right.

9 | Q. And as far as these administrative
10 | difficulties that you speak of that still exist that you
11 | are working towards and seem to be improving, is it within
12 | the competence of two of the members of the Board to deal
13 | with such problems, sir?

14 | A. Yes.

15 | Q. If two would act in concert they
16 | could accomplish the cleaning up of this problem or these
17 | problems you speak of?

18 | A. Correct.

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1 Q. Do you wish to be more specific
2 about the area of those problems, sir? You offer as I
3 understand it some criticism of the administrative end
4 as opposed to the adjudicative. Do you wish to be more
5 specific about that for the benefit of the Committee?

6 A. Well, I can't think of anything specific, but
7 my understanding is that some of the detailed work which
8 the Chairman is now doing I think in my opinion, whether
9 I am right or whether I am wrong, should go to the Board.
10 Now some of it may be very insignificant and unimportant,
11 I don't know of any important matters that don't go to the
12 Board or any policy matters that I have, but these are
13 some day to day kinds of correspondence and / that I think
14 should have a channel to go direct to the Board and not
15 go to the Chairman. And I don't think it is all that
16 serious but I think it is a matter of practice that it
17 should.

18 Q. All Board members then might feel
19 a fuller participation in the function of the Board?

20 A. I would think so.

21 Q. Now, sir, there is one matter that
22 was dealt on I think in the earlier evidence here, and
23 that was the meetings with the Minister as a corporate
24 unit were not frequent and perhaps they weren't frequent
25 enough. Can you give the Committee any assistance on
26 that point, sir, your opinion?

27 A. Is your question did I have such a
28 meeting?

29 Q. No, I think that earlier in the
30 history of the Board the Committee may have been asked to

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1 believe that the Board as a corporate unit did not meet
2 very often with the Minister and perhaps not often enough.
3 Is that now the case in your opinion, or is there some
4 approvement that could be made in that area as far as
5 your opinion is concerned?

6 A. I have only met collectively with the
7 Minister once in my tenure of office as a group.

8 Q. In your opinion should there be any
9 regular reporting as a unit to the Minister or is there
10 any need for that in your opinion, sir?

11 A. My opinion is that there are occasions
12 when it might be advisable for the three members of the
13 Board to meet with the Minister if it was a fairly major
14 issue : to you know, get the opinion of the three because
15 there may be differences of opinion. But where there is
16 a unanimous opinion of the Board and the Board is simply
17 obliged to report to the Minister it is quite in order
18 for the Chairman to report to the Minister under those
19 circumstances and I just think that the only time that we
20 should meet the Minister is if this is a matter of major
21 concern and whether there may be some differences of
22 opinion.

23 Q. In your opinion sir, has there been
24 any occasion during your tenure that it would have been
25 wise or prudent to meet with the Minister when you did
26 not have the opportunity?

27 A. I would have thought when I first
28 came on the job if the Minister had called the three of
29 us together and told us what was expected of us it might
30 have been helpful.

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1 Q. Any further occasions other than
2 that, sir?

3 A. Nothing specific, no.

4 Q. The earlier evidence would lead the
5 Committee to believe that although the Board members
6 may not have met as a corporate unit with the Minister
7 they had the opportunity individually to speak to the
8 Minister and have his advice or at least make contact
9 with him? Have you any comment about that, sir?

10 A. I had no trouble ever seeing the
11 Minister, any Minister. I could always pick the phone
12 up and make an appointment to see the Minister and I
13 never was bashful about doing it.

14 Q. Now there is another specific area
15 that I think gives the Committee some cause to investigate
16 or to look into an area and that is the question of the
17 early retirements in fairly substantial numbers. Had
18 that been the case during your tenure or was that
19 principally before you were appointed, sir?

20 A. I have no knowledge of it. That is
21 a routine business matter which the manager would take
22 up because all he would simply do would be routine. It
23 wouldn't come to the Board.

24 Q. I think the Committee's concern is
25 whether or not there is any pattern that gives rise --
26 could it be industrial rating or could it be malcontent
27 with the Board or could it be underpayment or could it
28 be even just dissatisfaction with working conditions
29 or Board policy? Do you see any trend that might help
30 the Committee in that regard?

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1 A. I have seen no dissention or no
2 mass exodus from the Board if that is the question, if
3 I understood your question correctly.

4 Q. I suppose my question is firstly,
5 is there such a thing in your tenure, and secondly,
6 if so, can you help us as to causes.

7 A. I have no evidence at all. If there
8 are any retirees that have left the Board that I know
9 have
10 of that I had anything to do with have left in the normal
11 course of events in a very amicable way.

12 Q. Do you have any comment as to
13 whether or not there was difficulty in keeping staff in
14 the Board, sir?

15 A. I have no knowledge. We have an
16 excellent staff and if you look at the records of the
17 staff I think you will find that it is an organization
18 with a terrible long term of tenure per employee.

19 Q. I notice that from the secretaries
20 we called.

21 A. And if you look through the whole 1400
22 that
23 you will find many of them have spent a lifetime with the
24 Board and these people might be worth listening to too
25 you know.

26 Q. The expression I think you used was
27 one of the improvements you had made was you had upgraded
28 the staff in some way; was that one of the things you
29 had done, sir?

30 A. No, I said -- I don't want to say I
31 did, the Board did. This was a collective thing that we
32 did. No, we took a look at our personnel department with

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1 the various fringe benefits coming in and with the over-
2 lapping and the Canada Pension Plan coming in, and this
3 kind of thing, we upgraded and we took a look at our
4 personnel department so that we did have a first class
5 personnel department which we have been going through
6 now for about a year I suppose, and I think it is in
7 pretty good shape today.

8 Q. Well the question arises I suppose
9 in one's mind on hearing that, was that as a result of
10 some earlier unsatisfactory existing conditions on your
11 arrival, or was it simply a routine improvement you had made?

12 A. Well, when I went there the personnel
13 department was what they call a sort of second line
14 department I thought, and I thought it could be a first
15 line department, and everyone agreed with me when we
16 took a look at it the time had arrived for this to be,
17 but I don't think there was any discontent or any in-
18 efficiency involved.

19 Q. Sir, there has been one thing that
20 has come very much to the forefront of this Committee
21 and that is the question of the Board orders on retirement.
22 I think two of them are on file, firstly, Mr. Cauley's
23 and secondly, Dr. Steele's and as my memory serves me Mr.
24 Allan raised a question as to whether or not this is an
25 area that we might look into, as to whether or not it
26 is wise or prudent to have the Board in a position where
27 it can make special orders for its own early retirement.
28 Have you any observation or comment on that that might
29 be helpful to the Committee?

30 A. I simply say that the rules and

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1 regulations should be uniform and everybody should live
2 by uniform regulations. I don't believe in special
3 privileges for anybody.

4 Q. That was the second aspect of Mr.
5 Allan's suggestion. He asked the question would it be
6 wise that there should be some uniformity, and you rather
7 say the answer is yes, there should be?

8 A. Yes.

9 Q. And I take it then in your opinion
10 it is not wise to have this opportunity for selective
11 enforcement of the retirement provisions?

12 A. I don't like making -- personally
13 don't like making a selective thing because I like the
14 rules to be there and the people to abide by them.

15 Q. I think before you told me not to
16 refer to you as the Board, and could you speak to me as
17 a member of the Board and not personally?

18 A. Yes.

19 Q. As a member of the Board do you have
20 any recommendations to the Committee in that regard?

21 A. About what, sir?

22 Q. As to whether or not the right to
23 selectively enforce the retirement provisions should be
24 changed.

25 A. I would have to look at them in detail
26 now to see what they are now because I really don't know
27 exactly what I am changing.

28 Q. Well your general position I take it
29 is that you are against the selective enforcement of
30 whatever rules may be?

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1 A. If for example they draw up
2 regulations to say that people with a long service and
3 a certain illness and certain things, some benefits
4 can flow from that and they are uniform benefits
5 then I have no quarrel with that, but I don't think that
6 you should be able to select that's all that I am
7 saying, on an individual basis.

8 Q. I take it even in the industrial
9 sector often a long service employee may be afforded
10 special benefits or credits and you say that is all
11 right, but let's do it uniformly?

12 A. Right.

13 Q. Insofar as is possible I suppose?

14 A. Yes, right.

15 Q. There is another area that I think
16 must be very much in the Committee's mind and perhaps
17 I should speak to you about it and it is the area of
18 industrial remissions, the assessments. As I understand
19 it the Board proposes dealing with that in a certain
20 order and you are to be part of that order to explain
21 part of it, but you prefer not to touch on it until
22 the other groundwork is laid; is that correct?

23 A. Yes. I think I would only muddy
24 the waters and get another argument going now if I
25 tried to explain that in this context.

26 Q. So you are prepared to deal with
27 it, but you ask leave to be excused until the groundwork
28 is laid by other witnesses?

29 A. Right.

30 Q. Is that correct?

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1 A. Yes.

2 Q. You are prepared to come back and
3 give evidence then, sir, is that correct?

4 A. Right.

5 Q. Now I don't know really if it is
6 a fair question to put to you but we did get into some area of
7 Board's salaries and so on today and the question of
8 reviews, and the first review appeared to / have been authorized
9 by the Board order that is filed here -- that was a
10 review made effective in October. Can you help us as
11 to what authority or where the subsequent reviews
12 originated? Did they originate at Board level or at
13 the Lieutenant Governor in Council level, the Cabinet
14 or whatever it is called?

15 A. Any salary that I had to do with
16 in the two years of my tenure never emanated from the
17 Board but emanated from the Treasury Board somewhere,
18 because I had nothing at all to do with it. The
19 Treasury Board sent me a questionnaire which I filled
20 out and there was no discussion in the Board or no
21 Board order to that effect, and as far as I am concerned
22 I would have no power to increase my own salary because
23 it is set by the Treasury Board and by the Order-in-Council
24 and I would certainly have no authority to do anything
25 about that.

26 Q. I think the Committee understands
27 that. I think the question was whether the Board was
28 at its own initiative every year having
29 reviewed or whether this instruction came down from a
30 higher level.

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1 A. Well to give you an answer I would
2 say no, we don't.

3 Q. The instruction comes from a
4 higher level as part of a general overall review; is
5 that ---

6 A. Right.

7 MR. DONNELLY: Mr. Hamilton, I would like
8 to thank you and I am sure that other members will have
9 questions for you.

10 THE CHAIRMAN: Mr. Deans?

11 MR. DEANS: Thank you. Mr. Hamilton, first
12 of all let me ask you about the changes that you made
13 or that you suggested in the administrative procedures.
14 You make quite a number of suggestions I suppose, and
15 a number of those that were instituted. Were you dis-
16 satisfied at the time the way in which the Board operated
17 previously was a correct way in administration?

18 THE WITNESS:. I got sidetracked here.

19 MR. DEANS: When you made these suggestions
20 you were obviously dissatisfied with the administrative
21 operations of the Board?

22 THE WITNESS: From what I saw, yes, from
23 what I was used to.

24 MR. DEANS: You believed from what I take
25 from your testimony that the members of the Board had
26 a relatively equal responsibility toward the administration.

27 THE WITNESS: Prior to my coming?

28 MR. DEANS: No, when you got there, you
29 thought the members of the Board had to play ^a more important,
30 perhaps a more -- not equal in that term but a more

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1 important role in the administration?

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2 THE WITNESS: All I simply did was
3 interpret the legislation and that the only guide I had
4 was to interpret the legislation, and that the legislation
5 as I had interpreted it was that I had an equal voice
6 in all matters having to do with the Board.

7 MR. DEANS: Why would it then be that the
8 Chairman of the Board would be paid so considerably more
9 than the other members of the Board considering the
10 relative equality of the responsibility of the various
11 members?

12 THE WITNESS: Well you have to ask two
13 people that, Mr. Deans, not me, either the Cabinet or
14 Mr. Legge, preferably the Cabinet.

15 MR. DEANS: I intend to do that, but it
16 was intimated by, I believe, by the Minister and certainly
17 by others that the Chairman of the Board had a more
18 onerous task, that he had much more in the way of res-
19 ponsibility than the other members. Do you believe that
20 to be true?

21 THE WITNESS: If the Board is run as I
22 see it should be run he has some additional responsibilities
23 because, as I see it, once the Board makes a decision he
24 speaks for the Board and I think there should be some
25 difference in the salary.

26 MR. DEANS: But in terms of the administra-
27 tion of the Board the Board decisions would be carried
28 out by the manager of the Board, the general manager and
29 other personnel you would hire rather than carry it out
30 by the Chairman; is that true?

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1 THE WITNESS: Partly true. If it was a
2 policy matter and the Chairman and the Board decided
3 it had something to do with the Government or the
4 Ministry, the Chairman would convey the message I would
5 gather or I would hope. If it was simply a matter ---
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1 If it was simply a matter of the business of the Board
2 then his staff and executive manager would so be directed.

3 MR. DEANS: Would the Board not normally
4 send a memo with the major decisions with regard to
5 policy that might have an impact on the government?

6 Would they not send a memo as a Board or perhaps a letter of
7 the Board to the government to say that the Board had
8 come to certain conclusions?

9 THE WITNESS: Yes.

10 MR. DEANS: They wouldn't send the Chairman
11 but they would send some written document?

12 THE WITNESS: The Minister or whoever might
13 want some further detail or some explanation, and usually
14 that happens, if you have an order of the Board or a memo
15 of the Board through legislation some elaboration on that
16 and some explanation on that would be required and usually
17 is required.

18 MR. DEANS: Would you think that those
19 things happened frequently enough to justify absences from
20 the hearings of the Board, hearings of claims and appeals?

21 THE WITNESS: I don't think I would want to
22 answer that. But I want to say this to you, though. I
23 don't think that if you look at the current schedule that
24 Mr. Legge has been away from that many of the appeals
25 during my tenure of office.

26 MR. DEANS: I want to ask you, under normal
27 conditions as you recall going back over the last two or
28 three years or back to your appointment, you say that the
29 Board has normally met as a three man board.

30 Who were the three persons who normally sat?

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1 THE WITNESS: The chairman, vice-chairman
2 and myself.

3 MR. DEANS: Would you be able to provide
4 us with a record of all of those hearings?

5 THE WITNESS: All of the hearings?

6 MR. DEANS: Yes.

7 THE WITNESS: They are available.

8 MR. DEANS: They are available?

9 THE WITNESS: Yes.

10 MR. DEANS: Are you saying to me now then
11 that the pattern that had prevailed up until the end of
12 April and perhaps to May -- end of April, 1969 changed
13 immediately after you were appointed to the Board?

14 THE WITNESS: I think it changed to some
15 extent; I don't know how drastic, but it changed to some
16 extent for the better.

17 MR. DEANS: Are you of the opinion that
18 the record of attendance at hearings of the members of
19 the Board who are permanent members would be approximately
20 equal?

21 THE WITNESS: No.

22 MR. DEANS: Would you say that the Chairman
23 attended more meetings than the other two?

24 THE WITNESS: No.

25 MR. DEANS: Would you say that the Vice-
26 Chairman chaired as often as the Chairman?

27 THE WITNESS: No.

28 MR. DEANS: How often would you say in your
29 recollection?

30 THE WITNESS: The records are here and you

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1 can have them.

2 MR. DONNELLY: I think, Mr. Chairman, that
3 is better dealt with by the records really.

4 MR. DEANS: Can we have the record now,
5 please?

6 I want then to ask you, are you familiar
7 with the newspaper article of ---

8 MR. SINGER: Before we go on to the next
9 point could we have the record read in?

10 THE CHAIRMAN: This is the attendance at
11 Board meetings and hearings, administrative meetings of
12 of the Board.

13 MR. LEWIS: Did you say administrative
14 hearings?

15 MR. DEANS: I'm only interested in ad-
16 judicative hearings. I made that point.

17 THE CHAIRMAN: Beginning in 1969 there
18 were 256. Mr. Legge attended 46 and missed 210. Mr.
19 Cauley attended ---

20 MR. LEWIS: I'm sorry, could you speak a
21 little louder, Mr. Chairman?

22 THE CHAIRMAN: Mr. Legge: Of 256 hearings
23 in 1969 Mr. Legge attended 46, missed 210. Mr. Cauley
24 attended 58 and missed 36. Mr. S.R. Johnston attended
25 242 and missed 14. Mr. W.B. Cross attended 118, missed
26 none. Mr. G.R. Poole attended 56 and missed none. In
27 1970 there were 245 hearings. Mr. Legge attended 129
28 and missed 116. Mr. Cross attended 20 and missed none
29 and Mr. Poole attended 144 and missed none. Mr. Decker
30 attended 195 and missed 30. Mr. D.F. Hamilton attended

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1 161, missed 45.

2 In 1971 there were 211 hearings; Mr. Legge
3 attended 109 and missed 102; Mr. Decker attended 178
4 and missed 33; Mr. D.F. Hamilton attended 192 and missed
5 19; Mr. Poole attended 105 and missed none.

6 In 1972 -- I guess this is to date or
7 somewhere near this date -- there were 60. Mr. Legge
8 attended 38 and missed 22 and Mr. Decker attended 54 and
9 missed 6; Mr. Hamilton attended 58 and missed 2; Mr.
10 Poole attended 22.

11 MR. DEANS: Mr. Hamilton, if I may, sir,
12 after seeing the record and having listened to your I
13 think early comment in which you said that Mr. Legge
14 appeared to be involved in, I think you said, too many
15 other things although you may have said many other things,
16 how many of the absentees, how many of the meetings which
17 he was absent from were as a result -- in your knowledge,
18 to your knowledge -- were as a result of his attendance
19 to matters other than Board business?

20 THE WITNESS: I wouldn't know.

21 MR. DEANS: How many to your knowledge then,
22 if you have any knowledge of this, do you directly know
23 were as a result of Board business?

24 THE WITNESS: I wouldn't know that either.

25 MR. DEANS: You don't know either?

26 THE CHAIRMAN: I think that question would
27 be more properly put to Mr. Legge.

28 MR. DEANS: Yes. We will probably put it
29 to whoever can answer it, I agree.

30 Let me change to another matter for a moment.

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1 On April the 7th in the Globe and Mail there was an
2 article written and the headline -- I haven't got all
3 of it, but it is dealing with tape recorders in the
4 offices in the summer of 1970. Are you familiar with
5 this practice?

6 THE WITNESS: I am not.

7 MR. DEANS: Have you reason to believe that
8 the practice did not take place?

9 THE WITNESS: I have no reason to believe
10 that the practice took place and I have no knowledge of
11 it whatsoever.

12 MR. DEANS: Have there been discussions by
13 the Board with Mr. Draper in regard to the allegations?

14 THE WITNESS: Not in my presence.

15 MR. DEANS: Why?

16 THE WITNESS: I don't know.

17 MR. DEANS: Don't you feel it was of
18 sufficient importance to the Board to sit down with Mr.
19 Draper and discuss it?

20 THE WITNESS: Yes.

21 MR. DEANS: Why then has the Board not
22 seen fit to deal with this matter since April 7th?

23 THE WITNESS: Pardon?

24 MR. DEANS: Why has the Board not seen fit
25 to deal with this since April 7th?

26 THE WITNESS: I don't know. I was not
27 there.

28 MR. DEANS: You were not there?

29 THE WITNESS: No.

30 MR. DEANS: Mr. Decker apparently said in

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1 the same order and I can only quote from it, that Mr.
2 Decker was saying that he decided to see Labour Minister,
3 Dalton Bales to tell^{him} something had to be done. He was
4 talking about distrust and hatred that existed in some
5 quarters of the Board and he said that just four months
6 after his appointment, and I suspect you perhaps at that
7 time were hospitalized -- in June?

8 THE WITNESS: I went in hospital on the
9 23rd of August.

10 MR. DEANS: Oh, well then you weren't.

11 "Four months after his appointment

12 Mr. Decker decided to see Labour

13 Minister Dalton Bales to tell him

14 something had to be done."

15 He went on to say he received a cordial welcome and was
16 told for the first time of an agreement between Mr.

17 Bales and Mr. Legge and the agreement apparently was the

18 only Workmen's Compensation Board officials who could

19 carry on direct communication with the Minister were

20 Mr. Legge himself or Mr. MacDonald. Are you familiar

21 with any such agreement?

22 THE WITNESS: No, sir.

23 MR. DEANS: Have you ever attempted to see

24 Mr. Bales or have you ever attempted to see any other

25 labour minister?

26 THE WITNESS: I attempted to see Mr. Bales

27 on two occasions and I had no difficulty. I saw the

28 Minister of Labour Mr. Carton without any difficulty.

29 I saw the Minister of Labour Mr. Guindon without any

30 difficulty and I have no knowledge of any such arrangement

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have

1 and I/had no difficulty in seeing the ministers.

2 MR. DEANS: Mr. Decker's final statement

3 and I obviously must ask him, but I will ask you. He

4 says, "Mr. Decker believed Mr. Legge's

5 attitude was the root cause of the

6 trouble and he could do nothing about

7 it."

8 Do you have any knowledge at all of what Mr. Decker

9 intended by that statement?

10 THE WITNESS: No, I don't, but I have some

11 reservations about credibility of putting a great deal

12 of emphasis on newspaper stories.

13 MR. DEANS: That is the reason I asked it

14 in the way I did.

15 THE WITNESS: Yes.

16 MR. DEANS: That's why I asked you if you

17 have any knowledge.

18 THE WITNESS: All right.

19 MR. DONNELLY: That is really an interesting

20 point, Mr. Deans, that you raised there when you spoke

21 and the way you asked the question. The question was

22 asked as if assuming the man had said it. I think it

23 might really better have been asked, "If he said that

24 do you know what he meant."

25 MR. DEANS: I said assuming he said it. I

26 can only assume he said it. I can only assume he did

27 until he said he didn't. I can perhaps say assuming he

28 didn't say it, did you have any knowledge. It doesn't

29 matter how you put it. I am asking simply did Mr.

30 Hamilton have any knowledge of why Mr. Decker might have

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1 said such a thing. I think it is perfectly proper.

2 The final matter is, you
3 mentioned the function of the chairman of the Board in
4 a public relations way to carry the message of the Board
5 out to those areas.

6 THE WITNESS: I don't think I said that.

7 MR. DEANS: Then the question was asked of
8 you I believe by the counsel and I thought you indicated
9 that that was one of the functions.

10 THE WITNESS: I don't remember saying
11 that he had any responsibility in a public relations way.

12 MR. DEANS: Well I made a note of it and
13 I'm not usually far wrong, not when I make notes, and I
14 am sure that the counsel did ask the question.

15 THE WITNESS: Either one of us are mistaken
16 because I don't remember ever
17 saying he had any responsibility in a public relations
18 way, I don't even remember using the words.

19 MR. DONNELLY: I thought I did use the
20 phrase, but it may have been in ^{the} context of an entire
21 question but I think the words were used by me as I
22 recall it.

23 THE WITNESS: Well I don't recall.

24 MR. DEANS: Well I would ask you quite
25 simply: Do you as a member of the Board take on speaking
26 engagements on behalf of the Board?

27 THE WITNESS: Occasionally.

28 MR. DEANS: Mr. Decker, does he do similar
29 things?

30 THE WITNESS: Yes, occasionally.

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1 MR. DEANS: And Mr. Legge, does he also?

2 THE WITNESS: Yes.

3 MR. DEANS: Would you say you share this
4 responsibility fairly equally?

5 THE WITNESS: No.

6 MR. DEANS: How is the responsibility shared?

7 THE WITNESS: I would say the preponderance
8 of speaking engagements have been done by Mr. Legge.

9 MR. DEANS: Would there be a reason for that?

10 THE WITNESS: I suppose he is better known
11 possibly to the Board and may be a better speaker.

12 MR. DEANS: Does the Board make decisions
13 on where members of the Board go?

14 The reason I ask is I notice on a minute
15 of the Board and a number of minutes of the Board pre-
16 viously put into evidence that on at least extensive
17 speaking engagements and visits by members of the Board
18 that the Board passed a minute saying, "Authorizing
19 Mr. So and So to attend a certain place," is this still
20 a practice of the Board?

21 THE WITNESS: Well, my practice would be
22 if I -- that I had gotten an invitation to go on a
23 speaking engagement I would report back to the Board and
24 if they had no objection I would proceed on this speaking
25 engagement.

26 MR. DEANS: And you still pass minutes
27 to that effect, signed minutes saying/you authorized
28 someone to go?

29 THE WITNESS: Not on all occasions. I
30 think ^{that} if I was going out of the country or going to any

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1 extent which I haven't done by the way, any extended one,
2 I would think that it would be a minute of the Board to
3 indicate that it had been authorized by the Board. But
4 if I were going to North Bay to speak to the Rotary Club
5 on a Saturday afternoon I would likely tell the Board
6 that I was on my way to speak to the Rotary Club at
7 North Bay at my expense or their expense or no expense
8 at all to the Board and under those circumstances there
9 would be no Board record and I suggest that there is a
10 lot of that kind of thing that goes on. But if I were
11 going to represent the Board at a convention in Boston
12 or London, England or some such place, then there would
13 be a formal record of the Board that I would be designated
14 so to go and my expenses would be paid accordingly.

15 MR. DEANS: I have no more questions at
16 this point.

17 THE CHAIRMAN: Mr. Miller?

18 MR. MILLER: Thank you. I have been very
19 impressed by the amount of knowledge you have, Mr.
20 Hamilton. I am just curious to know -- you appear to
21 have a transcript of the morning evidence on April 5th.
22 You were referring to it earlier?

23 MR. AUSTIN: May I answer that, Mr. Miller?
24 What we have is a collection of notes, recollection and
25 bits and pieces.

26 MR. MILLER: It seems to me -- I was
27 relying on my own memory and yours seems to be so much
28 better. Is there in your opinion at the present time
29 any permanent rift of either personality or principle
30 existing on the Board?

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THE WITNESS: Rift? There are differences
of opinion on the Board. We are three entirely different
individuals with different ideas and I suppose we will
always have those ideas and opinions and arguments. But
I think to say there is a rift, or if you want to go
one step further to say is there any harm being done by
the rift, I don't think so.

1 Q. I assume a normal difference of
2 opinion might even be good at times?

3 THE WITNESS: I would hope so, and I am not
4 suggesting that I am the easiest person in the world to
5 get along with either.

6 MR. MILLER: You mentioned you would
7 suggest some changes in practices and procedures?

8 THE WITNESS: Pardon?

9 MR. MILLER: You mentioned that you
10 suggested changes in practices and procedures at the
11 Board level and, in fact, you had approached Mr. Bales
12 about some. At this point, are there still a number
13 of changes you would like to see made?

14 THE WITNESS: Yes.

15 MR. MILLER: Can you itemize these for
16 future reference of this Committee?

17 THE WITNESS: I wouldn't like to off of
18 the top of my head right now.

19 MR. MILLER: Not right now. I am simply
20 saying one of the functions of this Committee is to
21 look into these practices and procedures.

22 THE WITNESS: I would look at them
23 be prepared to
24 intelligently but I wouldn't want to give you an off the
25 cuff answer.

26 MR. MILLER: You mentioned something
27 about Mr. Legge having had difficulty adjusting to
28 the steady working conditions of the Board; is that a far
29 recollection?

30 THE WITNESS: Yes.

MR. MILLER: What is your meaning of that?

1 THE WITNESS: I think Mr. Legge ran the
2 Board, you know, for a period, I don't know how long a
3 period, before my coming there, and he had his own style
4 and his own method of doing things where he had contact
5 with people and did certain things and I think that that
6 is what I meant in that context.

7 MR. MILLER: These executive duties for
8 which the Chairman receives this extra pay have never
9 clearly been defined. Do they for example relate to
10 direct contact with the senior staff?

11 THE WITNESS: I was asked that question
12 before. I don't know why he receives the extra pay. You
13 will have to ask the Cabinet.

14 MR. MILLER: Let me rephrase the question
15 then. In terms of dealing with the four principal officers
16 of the Board, is this left to Mr. Legge to do?

17 THE WITNESS: No.

18 MR. MILLER: They report as a unit or
19 individuals to the Board as a whole?

20 THE WITNESS: Right.

21 MR. MILLER: The administrative procedures
22 then that you referred to being in -- well, objecting to --
23 in what sense do you object?

24 THE WITNESS: I object ---

25 MR. MILLER: What are you objecting to?

26 THE WITNESS: I am referring to procedures,
27 in other words, how mail is handled, how different things
28 are handled and how they are channelled and I have still
29 some opinions that differ, I suppose, with both of my
30 colleagues about how that should be done and I think we

1 are in the throes of resolving those.

2 MR. MILLER: Now we have had information
3 that some 50 people of relatively senior positions have
4 elected to choose early retirement credits. This has
5 raised questions in our minds. Do you feel this was due
6 to fear on their part?

7 THE WITNESS: I can say to you honestly,
8 in my two years at the Board, I have had no indication
9 of fear from anyone; I have had nobody approach me either
10 privately, as they would do if they had some confidence
11 in me, to indicate that their/retirement was other than
12 a calculated one, that they had certain credits built up
13 and so on, that they would want to use them in a very
14 satisfactory way and leave. I have had no indication
15 of anybody leaving the Board in fear because there is
16 no fear at the Board.

17 MR. MILLER: Now the Minister seems to
18 have, as I mentioned earlier -- I think the word was
19 "tenuous" relations with the Board itself, intermittent
20 to say the best, and yet at a hearing like this, the
21 Minister is called upon to explain in great detail the
22 workings of the Board. If we expect this final respon-
23 sibility to remain vested with the Minister, should he
24 have a greater degree of contact with your Board?

25 THE WITNESS: I think that would have to
26 lie with the Minister. If the Minister felt that further
27 briefings or more often briefings or more information
28 was necessary for him to carry out his duties, I would
29 feel that would be fine. But from the Board's point of
30 view, the Board is autonomous to run its business pretty

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1 well on its own and if the Minister saw fit to meet
2 with the Board, I would have no objection to meeting
3 with the Minister periodically on whatever grounds he
4 wanted to meet.

5 MR. MILLER: When a Board meeting for
6 adjudication is going to be held, are you all notified?

7 THE WITNESS: Yes.

8 MR. MILLER: If you are not going to be
9 there, do you indicate this to the secretary?

10 THE WITNESS: Yes.

11 MR. MILLER: Do you have to give cause
12 for absence?

13 THE WITNESS: Well, when you put it
14 do I have to ---

15 MR. MILLER: Do you, then?

16 THE WITNESS: Always.

17 MR. MILLER: Is this a common practice
18 for the other two members of the Board?

19 THE WITNESS: You would have to ask me.
20 As far as I am concerned when I leave I always have
21 cause and my secretary knows where I am and why I am
22 away.

23 MR. MILLER: How about Board meetings for
24 administrative purposes?

25 THE WITNESS: We have scheduled these
26 now every Tuesday morning at 10:00 o'clock and they
27 are regular and that is the agenda and that is the
28 business meeting and they are scheduled and that is one
29 of the approvments.

30 MR. MILLER: So the 3 permanent members are

1 generally there for that meeting?

2 THE WITNESS: Pretty regularly, unless
3 someone is out of town and then if there is a major matter
4 comes on we postpone it a week if it is possible to do
5 so but generally they are there.

6 MR. MILLER: We have been told that
7 Mr. Cauley at one point was told by Mr. MacDonald not
8 to complain to a minister or to withhold his criticism
9 of appeal procedures. Have you ever been told not to
10 criticize the Board's procedures or the Board personnel?

11 THE WITNESS: Never, and I would never do
12 it, and I am here today and it should be demonstrated that
13 I have no fear about anything, answering any questions
14 about the Board and its procedures or my participation
15 in them.

16 MR. MILLER: Would the speaking engagement
17 requests normally be directed to the Board as a whole or
18 do they come to you gentlemen as individuals?

19 THE WITNESS: They have come primarily as
20 individuals; mine have come as individuals.

21 MR. MILLER: Those are all the questions
22 I have, Mr. Chairman.

23 MR. NEWMAN: Mr. Chairman, I would like
24 to have a couple of questions. It was brought up
25 earlier in testimony and I don't have it here in front
26 of me but that the Chairman was abrupt and was short both
27 with people and with delegations and I would like to
28 hear some comment because, as far as I am concerned,
29 I think public relations is very important to you people
30 and it was said, I believe by Mr. Cauley, that the Chairman

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1 was abrupt and when the delegation was meetings at some
2 times, the Chairman wouldn't sit down hardly at times
3 and talk to people. Perhaps it's unfair to ask you this
4 but you sat on the Board with him and do you find that he
5 is abrupt and short with the people that are before the
6 Board?

7 THE WITNESS: No.

8 MR. NEWMAN: It was delegations, have you
9 found that with delegations?

10 THE WITNESS: No, very charming, as a
11 matter of fact.

12 MR. NEWMAN: I beg your pardon?

13 THE WITNESS: He is very charming.

14 THE CHAIRMAN: Mr. Wiseman?

15 MR. WISEMAN: Yes. Mr. Hamilton, I think
16 some of the fact this has been brought on is because
17 members have been able to build up their holidays. Has
18 the Board taken any action to stop the buildup of holiday
19 pay. If a man works hard all year he should take his time
20 off, otherwise I feel he is not going to do an efficient
21 job for you. What is your feeling on that?

22 THE WITNESS: Well, you are/ asking me a question
23 and then you are giving me an answer. Do you want the
24 question or the answer.

25 Pardon?

26 MR. WISEMAN: I want to know whether the
27 Board has made any ruling on this matter.

28 THE WITNESS: The Board has made no ruling
29 on it, and if you want my opinion, I share some of your
30 thinking -- I feel if you have a holiday, you should take it.

1 was abrupt and when the delegation was meetings at some
2 times, the Chairman wouldn't sit down hardly at times
3 and talk to people. Perhaps it's unfair to ask you this
4 but you sat on the Board with him and do you find that he
5 is abrupt and short with the people that are before the
6 Board?

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8 MR. NEWMAN: It was delegations, have you
9 found that with delegations?

10 THE WITNESS: No, very charming, as a
11 matter of fact.

12 MR. NEWMAN: I beg your pardon?

13 THE WITNESS: He is very charming.

14 THE CHAIRMAN: Mr. Wiseman?

15 MR. WISEMAN: Yes. Mr. Hamilton, I think
16 some of the fact this has been brought on is because
17 members have been able to build up their holidays. Has
18 the Board taken any action to stop the buildup of holiday
19 pay. If a man works hard all year he should take his time
20 off, otherwise I feel he is not going to do an efficient
21 job for you. What is your feeling on that?

22 asking me
23 THE WITNESS: Well, you are/ a question
24 and then you are giving me an answer. Do you want the
25 question or the answer.

26 Pardon?

27 MR. WISEMAN: I want to know whether the
28 Board has made any ruling on this matter.

29 THE WITNESS: The Board has made no ruling
30 on it, and if you want my opinion, I share some of your
thinking -- I feel if you have a holiday, you should take it.

1 But I also say that if you make a great sacrifice and do
2 something for the Board and simply cannot take your holidays,
3 I don't see any reason why you should sacrifice them or
4 give them up and it depends a whole lot on the circumstances.
5 We have done nothing about it to this date, that specifically
6 answers your question; secondly, I think people should take
7 their holidays as they come along, they need them in order
8 to do their work. But I wouldn't simply shut the door and
9 say that if I make a sacrifice and stay for two years at
10 the Board without a holiday that I should give it up because
11 I might be right in the middle of a very -- I might decide
12 to take my holidays in the middle of this Hearing, quite
13 convenient for me to. I think it would be awfully crazy
14 but I would be quite entitled to it but why should I give
15 up my holidays?

16 MR. WISEMAN: Who from the Board, after
17 the three members, yourself, Mr. Legge and the other
18 gentleman, signed the agreement to have your salaries
19 reviewed in '69. The man said after that this morning
20 here, Mr. Marmash, that after that he received a phone
21 call from some member of the Board authorizing that.
22 Was I right on that?

23 He wasn't there?

24 THE CHAIRMAN: No.

25 THE WITNESS: I answered the question before
26 and I don't know whether you put it to me but I answered
27 the question before that I had nothing at all to do with
28 my salary -- you know, the implementation or the inter-
29 rogation with regards to my salary. As far as I understood
30 it, it came from the Treasury Board because I have no right

1 to set my salary, to adjust my salary, it has to be done
2 by the Cabinet.

3 MR. WISEMAN: There was an adjustment in
4 October of 1971 and you would be on the Board then?

5 THE WITNESS: But the work done prior
6 to that had been done before my coming. I was just
7 gratuitously caught in the very benevolent situation.

8 MR. WISEMAN: I think Mr. Miller asked you
9 this one but is there harmony in the Board now?

10 THE WITNESS: Complete harmony? No, and
11 I hope there never will be.

12 MR. WISEMAN: But there isn't a case of
13 where a man has to write down all of what he says, one
14 to another?

15 THE WITNESS: No, I haven't made the practise
16 of that. I think that you always are going to have differences
17 of opinion and if you have one strong man and two yes men,
18 you haven't got a Board. If you have got differences of
19 opinion and people who are ready to fight for their positions
20 whether they be rightly or wrongly, you have a better board.
21 And a little discord is a hell of a lot better than continual
22 harmony.

23 THE CHAIRMAN: Mr. Miller?

24 MR. MILLER: I wanted to ask one more
25 question about retirement conditions, Mr. Hamilton.
26 Mr. Bill Anderson, of the Civil Service Commission, has
27 stated to me that normal civil servants can only accumulate
28 unused vacation credits for a period not exceeding 18 months
29 prior to their leaving employment. Now, I have been trying
30 to justify in mind why the Workmen's Compensation Board

1 would not follow such a policy?

2 THE WITNESS: Well, this policy was adopted
3 many, many years ago, long before my coming, so I really
4 had nothing at all to do with it, it is just there. Now
5 whether it is entitled to be subject to review at this
6 time is debatable, of course, but I have had nothing to
7 do with its implementation.

8 MR. MILLER: Surely governments aren't
9 known for being mean in this area. I would have thought
10 that this kind of thing would have been suffice for the
11 Board?

12 THE WITNESS: I don't know. You see, I
13 had nothing at all to do with it.

14 MR. MILLER: I, as one person, would
15 recommend that it be reviewed.

16 Were any adjudication meetings held quickly
17 without time for notice to be sent to the members of the
18 Board?

19 In other words, were there snap meetings?

20 THE WITNESS: Never.

21 MR. MILLER: Or administrative?

22 THE WITNESS: No.

23 THE CHAIRMAN: Mr. Allan. I must apologize,
24 Mr. Allan, I have been neglective.

25 MR. ALLAN: Mr. Hamilton, just one or two
26 questions. We seem to be greatly interested in the
27 salary the members of the Board receive -- there has been
28 a great deal of discussion about it. I would like to
29 ask you first if you agree with the present method of
30 arriving at those salaries and I say this having in mind

1 that you have nothing to do with it or any other members
2 of the Board have anything to do with it, that it is done
3 by a firm of management consultants at the request of
4 the Treasury Board which I suppose you could follow back
5 to Cabinet and that they have asked independent persons
6 in to come/and appraise the duties and responsibilities of
7 the various members of the Board and to make recommendations
8 for salary. Now do you think that has been a satisfactory
9 arrangement?

10 THE WITNESS: I am rather a poor one to
11 ask this because my low opinion of management consultants ---

12 MR. ALLAN: You shouldn't be prejudiced.

13 THE WITNESS: Pardon?

14 But I simply want to make this statement
15 to Mr. Allan. I think it is the responsibility of Cabinet
16 to decide what the remuneration is and how they arrive at
17 it I don't care.

18 MR. ALLAN: Well, of course they don't
19 necessarily take the report of the management consultants?

20 THE WITNESS: I don't care how they arrive
21 at it.

22 MR. ALLAN: But there is a study by
23 management consultants and after that report has been made
24 then Treasury Board decide upon the salaries?

25 THE WITNESS: They have to decide, not me,
26 because all I have to decide is if I don't like the salary
27 I won't be there.

28 MR. ALLAN: Do you think this has been a
29 satisfactory -- well, I gather you thought it was from
30 your own point of view, you mentioned something about

1 benevolent atmosphere?

2 THE WITNESS: I didn't say that, I said
3 that in relation to ---

4 MR. ALLAN: Something like that, gratuitous,
5 was that it?

6

7

8 That has to be done in some way,
9 doesn't it?

10 THE WITNESS: Yes.

11 MR. ALLAN: You don't think you should do
12 it or the Chairman of the Board should do it?

13 THE WITNESS: Right.

14 MR. ALLAN: So you couldn't find too much
15 fault with this plan?

16 THE WITNESS: All I simply say in answer
17 to your question, I think it is the Treasury Board who
18 decide.

19 MR. ALLAN: Well it is the Treasury Board
20 who decide.

21 THE WITNESS: To decide what it is.

22 MR. ALLAN: And now the management board,
23 to be up-to-date.

24 Now the other thing I want to ask you in connec
25 tion with salaries is that there has been a good deal
26 of discussion as to whether the Vice-Chairman of the
27 Board is entitled to more salary than the third member
28 of the Board.

29

30

1 What is your opinion of that?

2 THE WITNESS: I am^a rather poor one to ask
3 that too. All I would simply say, if I were doing it I
4 would think that I would give the Vice-Chairman a token
5 few dollars more than the Board member simply as a token
6 that he does something in the absence of the Chairman.
7 I think that is normal practice in other institutions.

8 MR. ALLAN: We will have to see that the
9 Treasury Board learn your point of view.

10 THE WITNESS: I think they knew it.

11 MR. DEANS: Perhaps you could have a
12 management consultant come in and ask you what you think
13 it's worth.

14 MR. GOOD: Mr. Hamilton, I would like to
15 go back to one matter that you raised at the beginning,
16 and that during the course of your testimony that you
17 said that you felt the Board was run by Mr. Legge prior
18 to you coming there. What made you think that?

19 THE WITNESS: It would seem to me that the
20 Board was in kind of a hiatus between pro tempore people
21 and the others through having left and so on and I think
22 Mr. Legge just took over and ran the Board. It was pretty
23 self evident.

24 MR. GOOD: You mean you as secretary of
25 the Labour Federation, was that your action, your contact
26 with the Board would make you draw this conclusion prior
27 to you being ---

28 THE WITNESS: It wasn't drawn prior to my
29 coming there, it was drawn quickly after I had been there.

30 MR. GOOD: It was after you got to the Board

14/2 1 that you came to the conclusion that the Board had been
2 run too much by Mr. Legge prior to you coming there?

3 THE WITNESS: Yes.

4 MR. GOOD: Were you aware of this condition
5 before your appointment to the Board?

6 THE WITNESS: Not particularly.

7 MR. GOOD: Did your attitudes toward the
8 operations and procedures at the Board change after
9 your appointment, the appeal procedure?

10 THE WITNESS: I don't quite follow you.

11 MR. GOOD: Well I understand some labour
12 groups and trade councils were quite critical of your
13 certain statements after it was know that you were going
14 to be appointed to the Board.

15 THE WITNESS: What people?

16 MR. GOOD: Well do you want me to read it,
17 all right, Trades and Labour Council of the Building
18 Trades Construction sent out to all their affiliates,
19 unions, regarding, "Please find attached a very interesting
20 letter from / gentleman that will be the new labour
21 representative at the Workmen's Compensation Board as
22 a Commissioner. The underlying sections in the second
23 paragraph is most interesting." And then they go on
24 to say a few other things, and then they say, "Our
25 previous Vice-Chairman certainly had no doubts about
26 the previous system. Is this the new theme that this
27 gentleman is going to use to con a labour union into
28 accepting this lousy system?" So I would feel there
29 was some feeling between some of the labour unions or
30 labour congressman as to your interpretation of whether

1 the new appeal system was correct or incorrect before you
2 went to the Board.

3 THE WITNESS: Yes. Let me state my
4 position. My position was as Secretary Treasurer of the
5 Ontario Federation of Labour -- there were as I say, 2,000
6 local unions scattered across the province. There were
7 some locals and I don't know how many; that would likely
8 be one of them, that was one of the organizations, who were
9 sold on the status quo or the old system and said so.

10 There was another body of opinion that said,
11 "It's time for a change and let's move into the new."
12 My position personally through the whole piece was, let
13 us move into the new, let it run for a year or two, find
14 out whether it's going to work or not and then make a
15 judgment on it. Because you couldn't make a judgment on
16 it without some experience.

17 MR. GOOD: So in other words in reply to
18 them you stated that the resolutions deal much too
19 harshly with this matter and if it proceeds, could in the
20 long run do more harm than good. You were appointed on
21 April 1st. When did you first know that you were going
22 to be appointed, at least the Order-in-Council which
23 recognized Mr. Cauley's resignation and your appointment?
24 As Mr. Bales said yesterday, he wanted the ^{two} to coincide
25 in public notification. When were you first aware that
26 you were going to be appointed?

27 THE WITNESS: I can recite that to you
28 because it could very vivid to my memory because as you
29 know I had quite a hassle with a certain member of
30 Parliament about that time. On February 13th of 1970, the

1 day before which would be the 12th, I got a call by
2 telephone from the then Minister of Labour, Dalton Bales,
3 and he asked me if I would come down and meet with him
4 in the Royal York Hotel for lunch. I hadn't the
5 slightest idea what it was about and he had with him at
6 that time Thomas Eberlee, his Deputy, we had a sandwich
7 and a cup of tea and we talked about a number of things
8 and then he said to me, "How would you like to go down
9 as a member of the Board?" And that is the first inkling
10 that I had that I was even being considered for the post.

11 MR. GOOD: And then it was the next day
12 that you sent out a memorandum to this particular labour
13 union stating that they had dealt too harshly in their
14 memorandum with the Board; is that correct?

15 THE WITNESS: What memorandum? I don't
16 know what you are talking about.

17 MR. GOOD: Well would you like me to read
18 it?

19 THE WITNESS: Yes. What is the date of
20 it?

21 MR. GOOD: February 13th, 1970.

22 THE WITNESS: What does it say?

23 MR. GOOD: "I have received your circular
24 letter to all labour ---"

25 This is not the original copy.

26 "--- to all labour unions in Ontario dated
27 February 6th in which you have asked for
28 support of the resolution to be presented
29 to the Legislative Assembly by Mr. Danny
30 Q.C.
DeMontague, / MPP in regard to the present

1 appeals procedure of the Workmen's
2 Compensation Board. Ordinarily I would
3 not comment on a circular letter, but the
4 harsh language of this resolution and
5 the conclusions reached at it are in
6 variance with our experience at the Board."

7 And I am sure you mean with your experience as
8 Secretary Treasurer because at this point you were not
9 a Board member.

10 THE WITNESS: That's right.
11 MR. GOOD:

12 "I am sure the brief comments I will
13 make may be of some assistance to you.
14 As you know the Workmen's Compensation Act
15 has a prohibitive clause which keeps
16 jurisdictions or claims out of the court."

17 And then it goes on to explain. So the memorandum that
18 went out which was back in March 11th -- pardon me, that
19 is after that. But I am just saying the letter of this
20 and then it goes on to say other things and then it is
21 signed by D. F. Hamilton which I presume is you?

22 THE WITNESS: Yes, I recall the letter.

23 MR. GOOD: You recall the letter. So this
24 first
25 was sent out the day after you were approached to be a
26 member of the Board?

27 THE WITNESS: Yes.

28 MR. GOOD: Did your attitude then on this
29 appeal procedure change after you were a member of the
30 Board?

THE WITNESS: No, it hasn't changed and
it hasn't changed to this day.

4/6

1 MR. GOOD: In other words, prior to your
2 when
3 appointment/you were under criticism by various members
4 of the Board -- members of the various federations and
5 councils, that was one of the reasons why you were?

6 THE WITNESS: That's right.

7 MR. GOOD: But could you just elaborate
8 a little more on what led you to draw some of your
9 conclusions as to the operation of the Board prior to you
10 being appointed?

11 THE WITNESS: We had contact with the
12 Board almost daily. We had a welfare department and we
13 had a director of welfare who almost daily was there
14 with a claim, as an advocate in a claim of one kind or
15 another and he reported to me weekly about how many
16 claims he had, how he got them through and so on and so
17 on, and so I was quite familiar with the workings of the
18 Board because of his activity there. He lived at the
19 Board practically because I would suppose about 80% or 90%
20 of his work was simply Compensation work as a director
21 of welfare for the organization which I was responsible
22 to run.

23 MR. GOOD: But at that time you hadn't
24 drawn the conclusion that the Board was run by Mr. Legge
25 himself?

26 THE WITNESS: No.

27 MR. GOOD: It wasn't until after your
28 appointment that you knew that?

29 THE WITNESS: No.

30 MR. GOOD: Do you believe -- was there
anything in your relationships with the Board prior to

1 your appointment that would have led you to believe the
2 same conditions might have existed that in any way
3 contributed to Mr. Cauley taking early retirement. Did
4 you know Mr. Cauley well before your appointment to the Board?

5 THE WITNESS: Oh, I have known Mr. Cauley
6 well for many, many years.

7 MR. GOOD: You have stated that.

8 THE WITNESS: And I was aware of the turmoil
9 and the rumblings with Mr. Cauley because I knew that --
10 that position.

11 MR. GOOD: And you did then -- when did
12 you learn of his retirement?

13 THE WITNESS: Oh I suppose I knew -- I
14 don't know the exact day but I knew, you know, generally
15 because our people were at the Board almost daily. I
16 don't know the exact circumstances.

17 MR. GOOD: His notice went in asking to
18 be relieved of duty in May of '69 and it wasn't formally
19 announced until April of 1970. Some of the labour
20 organizations were surprised not to see his signature on
21 their Christmas cards that year. Did you know prior to
22 that that he was no longer with the Board?

23 THE WITNESS: I wouldn't know precisely
24 the moment that I knew.

25 MR. GOOD: Did you believe that he retired
26 for health reasons?

27 THE WITNESS: I had no reason why he
28 retired.

29 MR. GOOD: You had no idea why he
30 retired?

1 THE WITNESS: I don't.

2 MR. DEANS: Mr. Hamilton, Mr. Poole
3 seems to be at quite a number of Board hearings. Is
4 Mr. Poole on call?

5 THE WITNESS: Yes.

6 MR. DEANS: How do you determine when
7 Mr. Poole is going to be required if you simply tell your
8 secretary you won't be in, does she check with Mr. Legge's and
9 Mr. Decker's secretary to see whether they are going to
10 be in? Now how do you arrange for Mr. Poole to be there?

11 THE WITNESS: I notify my secretary or Mr.
12 MacDonald's office. Mr. MacDonald makes the arrangements
13 for me. For example I will report to Mr. MacDonald and
14 Mr. MacDonald will make the arrangement.

15 MR. DEANS: How many days a week is Mr.
16 Poole in the office?

17 THE WITNESS: Is he in the office? Oh
18 there may be weeks -- this pretty well will show you
19 if you look at the figures here. There may be weeks he
20 is not there at all, there may be weeks he is there a
21 day or two days, there may be weeks he might be -- if
22 someone is on holiday he might be there all week, but
23 he is only there -- he doesn't participate in the business
24 of running the organization, so that he really is not
25 there either Mondays or Fridays or Tuesday morning,
26 and very rarely I would say Tuesday afternoon, but maybe
27 on occasion, but Wednesday and Thursday during the
28 hearing days he would be there.

29 MR. DEANS: Sir, I don't know if you have a
30

1 copy but I notice in 1970 Mr. Poole sat in on 144 of the
2 245 meetings that were held.

3 year
THE WITNESS: What/are you looking at?

4 MR. DEANS: 1970, starting at the year
5 after Mr. Cauley left. He sat in at 144, he sat in on
6 more meetings actually than Mr. Legge and I notice the
7 following year Mr. Poole sat in on 105 meetings.

8 THE WITNESS: Yes.

9 MR. DEANS: Of that 211 which is about
10 a little better
11 half, the first year, / than half the second year.
12 about half and this year he sat in on 22 of the 60
13 meetings and I would be interested to see the break down
14 month to month, but I would like to ask you, how is Mr.
15 Poole paid? Is he paid on a per dium or on a meeting
16 basis?

17 THE WITNESS: I don't know the precise
18 arrangement. I think it is on a per dium but Mr.
19 MacDonald could clear that up for you because he knows
20 precisely what the payments are. Before we leave this I
21 would just like to leave with you the fact that of the
22 days Mr. Poole was in 30 of those were for Decker and
23 45 of them were for Hamilton, because I was off, as you
24 know, sick.

25 MR. DEANS: In 1970?

26 THE WITNESS: Yes, so there is a
27 juggle of the three rather than the juggle on the one.

28 MR. DEANS: I understand that.

29 I am just interested, Mr. Poole is on
30 retirement; am I correct Mr. Poole is retired?

THE WITNESS: He either is just -- he is

1/10

1 either using up sick leave or he is on his retirement.

2 Again Mr. MacDonald is the administrative ---

3 MR. DEANS: If Mr. Poole were using sick
4 leave he wouldn't be drawing sick leave credits on days
5 that he was receiving a per diem from the Board, would
6 he?

7 THE WITNESS: No.

8 MR. DEANS: And there would be proof of
9 that?

10 THE WITNESS: I would think so. Again I
11 wish to be fair with everybody. If you would ask Mr.
12 MacDonald the specific details because he is the
13 administrative officer who knows them and I would like
14 to give you what I really think and it may not be exactly
15 accurate. I think Mr. MacDonald can give you that exactly
16 in administrative detail.

17 MR. DEANS: Perhaps I could get counsel
18 to obtain the payment records for Mr. Poole for the years
19 1970, '71 and '72.

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1 MR. DONNELLY: Right now?

2 MR. DEANS: As soon as they could be made
3 available.

4 MR. AUSTIN: Mr. Chairman, before we go
5 any further which is the precise information you require
6 with regard to Mr. Poole?

7 MR. DEANS: I would like to know of the
8 hearings how many hearings Mr. Poole was actually in
9 attendance at the Board, what the arrangement is with
10 regard to a per dium arrangements, whether he is paid --
11 how much he is paid, whether he is retired or still on
12 sick leave, what arrangements are made to alter his
13 benefits when he is receiving per dium as opposed to
14 receiving sick leave credits.

15 You can understand?

16 MR. AUSTIN: Thank you.

17 THE CHAIRMAN: Mr. Singer, with your
18 permission I will take Mr. Gaunt first. Our procedure
19 is to have Committee members and then other members.

20 Mr. Gaunt?

21 MR. GAUNT: Thank you, Mr. Chairman. I
22 just want to ask Mr. Hamilton, you were told on February
23 12th, 1970 that in your meeting with Mr. Bales and Mr.
24 Eberlee that they were considering your appointment
25 and I think the phrase you used, "Would you like to go
26 down to be a member of the Compensation Board," or some-
27 thing to that effect. You have also indicated that
28 you didn't seek the position, you didn't speak to anyone
29 about it. How did you view that appointment? Did you
30 view it as a step up; did you view it as an opportunity

1 to be of service in the public domain, or just how did
2 you view it?

3 THE WITNESS: Well, to go back to my
4 circumstances at the time, I was Secretary Treasurer of
5 the Ontario Federation of Labour which was a reasonably
6 onerous job; I was still a Commissioner with the Toronto
7 Transit Commission.

8 MR. GAUNT: At that time?

9 THE WITNESS: At that time, dual responsi-
10 bility. I just finished building a \$3,000,000.00 labour
11 centre for the Ontario Federation of Labour with all of
12 the headaches that that entailed and I did not intend
13 to run at the next Federation convention. It was my
14 intention to look around and find a new niche in the world,
15 if you like. I had been fourteen years with the
16 Federation and, frankly, I was considering going into
17 a business for myself and when this offer came along for
18 this job I didn't see anything better in the offing, so
19 I took it, it was just that simple.

20 MR. GAUNT: So you were intending making
21 a move at any rate. You were going to move into ---

22 THE WITNESS: I think it was fairly
23 common knowledge I didn't intend to run for the Federation
24 at the next coming convention.

25 MR. GAUNT: Simply because you had had
26 enough of it, it was too onerous and you wanted to get
27 into some other area ---

28 THE WITNESS: Wanted to move on.

29 MR. GAUNT: You wanted to get into
30 some other area.

1 Do you know if any of the Cabinet or any
2 of the people -- well, specifically the Minister, would
3 he have that knowledge, would he be aware of that?

4 THE WITNESS: I don't know. All I can say
5 to you, I don't know who spoke on my behalf, I don't
6 know how I was considered for the job; I don't know
7 anything at all about it. All I can say to you is this,
8 that the very first inkling that I had that I was going
9 to be considered for the job was when the Minister told
10 me at a luncheon on February 13th, 1970. It came as a
11 shock, as a matter of fact, that I was even being considered

12 MR. GAUNT: Do you suspect, and I suppose
13 at that point and perhaps at this point it can't be any
14 more than that, that there was some representation made
15 by labour groups on your behalf to promote your
16 interest in that regard?

17 THE WITNESS: I had done a look at the
18 any others.
19 Federation and to my knowledge there was no such thing.
20 The Minister could have answered that for you but to my
21 knowledge none was.

22 MR. GAUNT: All right.

23 THE CHAIRMAN: Mr. Ferrier?

24 MR. FERRIER: Yes, I have a couple of
25 questions to ask of you, Mr. Hamilton. Quite a bit has
26 been made about the old appeals system as compared with
27 the new system, and one of the things about the old
28 system apparently was that a member of Parliament or a
29 representative of the injured workman's union could go to
30 Mr. Cauley and through his office get service in dealing
with a problem that had arisen in a claim or this kind of

1 thing, and when the new system came in this kind of
2 informal relationship was superceded and the members of
3 the Board no longer were involved in the affairs of a
4 claim until presumably if it came before them on an
5 appeal. Now, there are at the Board a number of
6 administrative assistants. Do these people do much the
7 same work that was done by Mr. Cauley or those in his
8 office under the old system?

9 THE WITNESS: In many respects, yes,
10 except I think one difference and that is that I don't
11 deal with any claim at all. If I get a letter from anyone
12 I simply turn it over to the admin. group as you know
13 in your experience and I have them do the work because
14 I don't want to be involved with it or know anything at
15 all about it because I am going to have to deal with it
16 if it arrives at my level of appeal and certainly I would
17 have to disqualify myself if I dealt with it down at the
18 other levels. So the admin. department is simply doing
19 the spade work or the same kind of liaison work as was
20 the group that worked done with / Mr. Cauley before. To the same degree there
21 is some parallel to that.

22 MR. FERRIER: Personally I am very well
23 satisfied with the work that the administrative department
24 does in my own personal experience. I never had any
25 dealings with the former system, but do you know or have
26 you heard of anybody who is, or any section of this trade
27 union movement who may be dissatisfied with the kind of
28 service that they get from administrative -- the adminis-
29 trative department?

30 THE WITNESS: At present?

1 MR. FERRIER: Yes.

2 THE WITNESS: I have no knowledge, but I
3 have no doubt that there may be some. I have no knowledge,
4 first hand knowledge of it. The information I have is
5 that people who deal like yourself, who are pretty well
6 expert at it now, and come to the Board almost daily either
7 at the review committee level or the tribunal level or
8 at the Board level, seem to be once in a while disgruntled
9 about the results of a specific claim, but as to the
10 procedure they seem to be relatively happy and satisfied
11 and I think that this may very well, Mr. Chairman, be
12 something that this Committee could ask this group of
13 people who are the experienced people, the U.A.W., the
14 Steelworkers, these people who were there almost daily --
15 I meet them in the halls with appeals of some kind or
16 another -- I get the feeling, and I've talked to quite
17 a number of them, that the system as a system is satisfactory
18 to them.

19 MR. FERRIER: This is the next question I
20 was going to ask you, that may not altogether be fair,
21 but you have been very much involved in the trade union
22 movement and have a lot of connections there. Do you
23 know of any widespread discontent within the trade union
24 movement about the present appeal system?

25 THE WITNESS: There is no widespread dis-
26 content in the trade unions about it. There are --- I
27 suppose you could find individuals in some organizations
28 but they are very, very much in the minority. If you
29 take a look at the great cross-section of the people who
30 are expert in the field who come and go to that organization

1 they will tell you that the system today is working well.

2 MR. FERRIER: From my own experience I
3 have found that it has, but of course I never had any
4 experience under the old system.

5 THE WITNESS: I don't think you can make
6 comparisons with the old and this is one thing if the
7 Chairman doesn't rule me out of order I will proceed: and
8 ^{is} that/I think we are making a great mistake by simply
9 looking backwards over our shoulder and thinking that
10 people who are familiar with Sir William Meredith are
11 the only people who can administer compensation in 1972.
12 We have got to be looking at compensation not in 1972
13 but in 1982, and there are a great number of things that
14 are happening in our place in this country today where
15 somebody is going to have to take a very close look at
16 what is happening to all of the social security measures
17 vis-a-vis compensation and how we are going to use them,
18 and I think that this is an exercise that will be a
19 hell of a lot more profitable in looking back over our
20 shoulders and what happened ten years ago, and that has
21 been my position and I say so publicly and I say it again
22 now publicly.

23 MR. FERRIER: I think you have put your
24 finger on a very important point. I suppose that there
25 may be some refinements yet that can be made within the appeal
26 structure that we do have?

27 THE WITNESS: No question about it.

28 MR. FERRIER: That is all I would like to
29 say.

30 MR. DEANS: Mr. Hamilton, you say that you

1 are satisfied with the appeal system and I don't quarrel
2 with it. I too find the appeal system okay. I sometimes
3 don't like the results but the system it self is okay.
4 I am totally dissatisfied with the rehabilitation program
5 and I want to ask you, sir, have you in your two years
6 at the Board taken a look at the rehabilitation program
7 of the Board with an eye to bringing it into line with
8 what is available in today's society in the way of jobs?

9 THE WITNESS: We have brought in a new
10 rehabilitation director in the last two years who is
11 there. I don't want to take any responsibility to this.
12 We have just recently increased our staff and the
13 rehabilitation aspect of our operation is I think giving
14 us more concern than anything else. And I want to answer
15 your question this way because if you move into an area
16 like Cornwall or someplace where it is completely depressed
17 and thousands of able bodied people can't find jobs, we
18 just have almost an insurmountable task of trying to
19 get handicapped people back to work. Now I think our
20 facilities in the hospital and rehabilitation centre and
21 the facilities that we have as people on the staff do a
22 tremendous job to bring the people back to some kind of
23 physical, you know, betterment, maybe not as they were
24 before but then once you start and try to find work for
25 the handicapped in the community, particularly in a
26 depressed economy, then you have an almost insurmountable
27 task. And I would agree with you that if we got a lot
28 of our people earlier in a rehabilitation environment,
29 got them down the road a lot earlier, that we may get
30 a lot better results. And this is an area where we are

are
1 looking awfully seriously and/restaffing as fast as
2 we possibly can and this is what I am saying, some of
3 the things that we must look ahead at if we are going
4 to have the kind of system that I think we need.

5 MR. DEANS: You agree or you seem to
6 agree that in any rehabilitation program the objective
7 is to get the worker back to work and from what I can
8 see, how the workers that I speak with -- I realize that
9 I speak for the minority ---
10 but in speaking with them I see them in that -- we will
11 use the word training, it's not the proper word, re-
12 training perhaps in fields where they would be able to
13 find employment, and there are two things that always
14 bothered me. One is that an injured workman is regularly
15 asked what it is he wants to be retrained to do.
16 Obviously the sphere of knowledge in the majority of
17 workmen is limited and rather than that question being
18 asked I would like to suggest to you that the Board
19 approach be that they offer a range of possible employment
20 opportunities rather than the opposite.

21 THE WITNESS: Mr. Deans, what we do is
22 we send them out in a great number of cases for long
23 periods of work assessment to see where their adaptabilities
24 lie, to see where they can fit in, and this is a program
25 that we now -- we even send them out into the private
26 sector to do this kind of thing and we make a work
27 assessment, what are they capable of doing, before we
28 even start to retrain them.

29 MR. DEANS: I wonder, Mr. Hamilton, I
30 wonder if you would be kind enough to do me a favour.

1 Would you define for me modified work and light work?

2 MR. NEWMAN: Mr. Chairman, are we not
3 getting away from the point?

4 MR. DEANS: Oh no, we are not, we are
5 reviewing the Board's operation, this is an integral part
6 of the Board's operation.

7 THE WITNESS: Mr. Deans, this has troubled
8 us all from time immemorial and I don't know the answer
9 to your question.

10 MR. DEANS: Well, sir, how can you say
11 a person is fit for light work if you can't define what
12 it is he is fit to do.

13 THE WITNESS: We don't say he is fit for
14 light work I don't think. I think that we say if we give
15 him 50%, that he is 50% able to go back to some kind of
16 employment.

17 MR. DEANS: But you do recognize the
18 problem of the worker in that having been injured and
19 that being classified 50% better, if his own employer won't
20 take him back then no one else will take him either.

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2 You therefore put him in the position
3 of trying to live on the 50% or 75% or turning to unemploy-
4 ment insurance or welfare. I ask you, have you given
5 consideration at the administrative level of the Board or
6 at the policy level of the Board to altering that aspect
7 of the Board's operations, in order that when a person
8 is injured he is considered to be injured until he is fit
9 to return to work or until he is fit to have been adjudicated
10 for a pension, that in fact -- and I don't quarrel with the
11 fact that if work becomes available for him that he be
12 encouraged to try it.

13 THE WITNESS: Let me answer your question.

14 THE CHAIRMAN: May I interrupt for a moment?
15 I thought it was our intention, Mr. Counsel, that we were
16 going to deal with certain matters and then at some point
17 deal with the general operations of the Board and other
18 matters pertaining to Board operations and perhaps it
19 would be unfair to tie down some witnesses when we go
20 through all this and then perhaps go through it again.

21 MR. DONNELLY: Mr. Chairman, I wasn't aware
22 that this was one of the issues that was to come up but
23 I am not so presumptuous as to think that you had to tell
24 me before they were raised and I rather respected
25 Mr. Dean's right to make an inquiry, but the point may
26 be taken that this may well be a matter that perhaps if
27 we had more notice we might deal with more effectively.
28 To me it came as a matter of surprise but it doesn't mean
29 it can't be dealt with now.

30 MR. DEANS: I'm sorry.

1 THE CHAIRMAN: It was my opinion we were
2 going to have a general session at which time this sort
3 of thing could be gone into.

4 MR. DEANS: I want to be clear on this.
5 Am I to understand that the Board will remain -- not
6 necessarily physically -- but will remain available to
7 this Committee and when we have completed the investigation
8 of the allegations that the Board will then remain before
9 the Committee as it is presently constituted, in order
10 to deal with all the other matters of the Board?

11 THE CHAIRMAN: Definitely.

12 THE WITNESS: I can only speak as one
13 member of the Board, Mr. Deans, and I am quite prepared
14 to give this Committee any information that you want and
15 in the sequence that the Committee wants it.

16 THE CHAIRMAN: It may be a point we reach
17 when maybe Mr. Donnelly's services may not even be urgently
18 required at that precise time.

19 MR. DONNELLY: That will be a welcome day.

20 THE CHAIRMAN: Mr. Singer?

21 MR. SINGER: Yes, Mr. Chairman, I have a
22 few questions I would like to ask Mr. Hamilton.

23 At one stage in his evidence earlier this
24 afternoon I think he made the observation, Mr. Hamilton,
25 that Mr. Legge was involved in too many other things
26 and was away from the Board too much and then, at a later
27 stage in the same sequence, you said that that had
28 improved somewhat. At what stage had you formed the first
29 opinion and when subsequently did you change it?

30 THE WITNESS: Well maybe I will qualify it

1 by saying that I still think he has too many side issues
2 for his own good and I think it takes him away from the
3 Board too much even at the present time.

4 MR. SINGER: I see. Do you know what these
5 other things are?

6 THE WITNESS: You would have to ask him
7 because there are numerous -- I don't know how he does it,
8 frankly.

9 MR. SINGER: Now you say "for his own good."
10 Would you equally say for the good of the Board?

11 THE WITNESS: I would say so, yes.

12 MR. SINGER: Another observation that you
13 made was that shortly after your heart attack that you
14 had an interview with Mr. Bales?

15 THE WITNESS: Yes.

16 MR. SINGER: And if my notes are accurate
17 and I think they are, you used the words something like
18 this, "Mr. Bales prevailed upon me to go back and see if
19 I couldn't work out something that would be satisfactory,"
20 and then you went on to say, "and we did...." Would I
21 be correct in assuming that the use of the words "prevailed
22 upon me" would carry with it the implication that you were
23 suggesting to Mr. Bales that if conditions continued as
24 they were you would have to resign or leave the Board?

25 THE WITNESS: Oh no, I wouldn't want to
26 put that interpretation on it.

27 MR. SINGER: Then what did you mean by the
28 use of the phrase "prevailed"?

29 THE WITNESS: I suggested to Mr. Bales that
30 I thought it might be a good idea if he'd call the three

1 Board members together and spell out for them what, under
2 the legislation, he felt their responsibilities were.

3 Mr. Bales suggested to me, and I use whatever words you
4 used, that we go back and collectively see if we can't
5 work our way out of this things because it's too early.

6 And if we can't find a modus operendi that suits the
7 three of you and it is a satisfactory one, that is the best
8 thins to do at the moment which I proceeded to and still am.

9 MR. SINGER: Were you pretty unhappy at
the time that you had this interview with Mr. Bales?

10 THE WITNESS: Unhappy?

11 MR. SINGER: Yes, with what you found at
12 the Board.

13 THE WITNESS: Well I went into an environ-
14 ment which wasn't exactly the kind of environment I had
15 come out of. I was used to working with Boards and with
16 Commissions where everything had been done differently
17 and into a kind of a one-man operation. It was^a bit of an
18 adjustment, I must confess. I wasn't that distraught that
19 I was going to throw in the ball at that stage of the game
20 or anything but it was a concern.

21 MR. SINGER: Well I have listened to you
22 over a number of years, Mr. Hamilton, and I know that you
23 choose your words very carefully and the use of the word
24 "prevailed" in that particular context interested me.

25 THE WITNESS: I think he prevailed that I didn't
26 make an issue over the confrontation at the time to see
27 if we couldn't find a solution. I think that ---

28 MR. SINGER: Could you tell me the general
29 procedure that the Board uses in connection with decisions
30 to make land purchases?

1 THE WITNESS: Make land purchases?

2 MR. SINGER: Land purchases.

3 THE CHAIRMAN: Mr. Singer, we are going to
4 deal with that as a separate matter.

5 MR. SINGER: Oh, we can't get into that
6 at all here now?

7 THE CHAIRMAN: I am afraid not.

8 MR. SINGER: All right. It is going to
9 involve certainly the production of a great many witnesses
10 -- reproduction of a great many witnesses who have already
11 testified.

12 THE CHAIRMAN: It is on our agenda as a
13 separate matter.

14 MR. SINGER: That's all I really had because
15 I intended to pursue that aspect at some length.

16 THE CHAIRMAN: Have you completed, Mr. Singer?

17 MR. SINGER: Yes, I have completed.

18 THE CHAIRMAN: Any other members, then?

19 Mr. Lewis?

20 MP. LEWIS: Mr. Hamilton, on the morning of
21 April 8th -- I believe that would be a Friday morning --
22 I may be wrong -- after the Globe and Mail article appeared
23 alleging tape recordings and tape recorded telephone con-
24 versations and memo's conveyed to the chairman of the
25 Board, you met with the Minister of Labour in his office,
26 the three members of the Board, so he reported to the House.
27 I am working from memory and I think my memory is correct,
28 did you not at that time discuss with the Minister of
29 Labour what had appeared in the Globe and Mail?

30 THE WITNESS: No, I don't think we did.

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1 MR. DEANS: He said you didn't.

2 MR. LEWIS: The Minister of Labour, as I
3 specifically recall, said he had met with the Board that
4 morning and, in fact, I recall asking him a question.

5 THE WITNESS: Mr. Lewis, my memory recalls
6 that I think the substance of that conversation was whether
7 it would be advantageous to re-organize the Committee in
8 the form to which it is now or move on into a Royal Commission
9 or a public inquiry.

10 MR. DEANS: It was on the Friday, the 7th.

11 MR. LEWIS: Friday, the 7th.

12 MR. DEANS: It was as a result of the
13 evening paper and the meeting was held before ---

14 THE WITNESS: That is my recollection of
15 that in general.

16 MR. LEWIS: You discussed the possibility
17 of an expanded committee of inquiry versus a Royal
18 Commission with the Minister of Labour?

19 THE WITNESS: Yes, because we, at that time
20 -- Mr. Singer is going to catch me again and I have to
21 choose my words.

22 MR. LEWIS: But I am asking the questions
23 and I am more plain.

24 MR. SINGER: When did that happen?

25 THE WITNESS: We were rather inclined to
26 the position that we would want to move into a public
27 inquiry if we were going to have a repeat of the Wednesday
28 fiasco and I think that that was really the general time
29 of it.

30 MR. LEWIS: I see. So in fact that rather

1 extraordinary article was not discussed with the Minister
2 that morning?

3 THE WITNESS: Really not to my knowledge,
4 no.

5 MR. LEWIS: And I gather you have not
6 discussed it with the Board since?

7 THE WITNESS: Not as a Board.

8 MR. LEWIS: Not as a Board?

9 THE WITNESS: No.

10 MR. LEWIS: Given the categorical assertions
11 of the article, really quite remarkable in their categorical
12 nature, have you heard of the Board intending to pursue
13 any legal action?

14 THE WITNESS: No.

15 MR. LEWIS: Further question: when you use
16 the term "too numerous" -- the word is "numerous" I think
17 I quote you correctly about Mr. Legge's various other
18 activities, can you identify any of them that you know
19 about as a co-member of the Board, any of the organizations
20 specifically?

21 THE WITNESS: Well he last year, of course,
22 was head of the Canadian Association of Compensation Boards.
23 He is this year the head of the International I.A.B.C.E. --
24 it is a long name, he is that, which we are hosting here
25 this fall and that takes up some of his time. He does
26 some work for the National Safety Council -- I don't
27 know whether he is president this year or not -- he is
28 an officer of the National Safety Council, he does some
29 work -- I think it is the Group Fellowship Club and things
30 like that. Mr. Legge can give you the specifics, I am sure,

1 but that is the kind of thing that he is quite active in.

2 MR. LEWIS: Everyone has scrupulously
3 avoided mentioning one other dimension of Mr. Legge's life
4 which I believe is his very strong involvement in the
on occasion
5 Reserve and/or the Department of National Defense. Did
6 that emerge from time to time? Judging from the minutes
7 that were presented to this Committee earlier, when a
8 man leaves the Board, a member leaves the Board to take
9 conference somewhere his confreres approve it or attest
10 to the fact that they know that he is going. I take it
11 that some of these trips were military in nature?

12 THE WITNESS: I would imagine some of them
13 were.

14 MR. LEWIS: Do you recall any to which
15 you, yourself, have attested?

16 THE WITNESS: I think he has once a year
17 gone to Europe, to Belgium or Brussels or some place, to
18 my knowledge, but I want to qualify that, Mr. Lewis, by
19 simply saying that I think that anything Mr. Legge did
20 in the military field, he did, as far as I was concerned,
21 with the blessing of the government.

22 MR. LEWIS: With the blessing of the
23 government?

24 THE WITNESS: Yes. They were quite --
25 you know, they were quite aware of his commitment to this
26 activity.

27 MR. LEWIS: I see. I might want to come
28 back to that, Mr. Hamilton.

29 With the tremendous knowledge that you
30 have of the field of labour relations in this province,

1 probably more than any other person in this room, have
2 you ever heard in any trade union organization or in any
3 contractual relationship, of a person receiving sick leave
4 credits after he has resigned?

5 THE WITNESS: Well, if you were asking me
6 if I have any knowledge of any individual, I would have
7 to say no.

8 MR. LEWIS: Can I proceed for a moment to
9 go on, Mr. Chairman?

10 THE CHAIRMAN: Yes.

11 MR. LEWIS: The administrative meetings are
12 held on Tuesday mornings?

13 THE WITNESS: Yes, sir.

14 MR. LEWIS: Do you accomplish the administrative
15 work, as a rule, comfortably on Tuesday mornings of each week,
16 of the Board?

17 THE WITNESS: Reasonably, yes.

18 MR. LEWIS: They need not, as a Board, occupy
19 much more time each week?

20 THE WITNESS: Unless you run into a major
21 operation and I hate to raise this with Mr. Singer there
22 but the building was an example where a lot of great detail
23 work was involved.

24 MR. LEWIS: Oh, the land acquisition?

25 THE WITNESS: Yes, the land acquisition
26 and the building, where you have to go over great reports
27 and in great detail and then you set aside another half
28 day. But the normal routine business, allocation of
29 duties and so on, is taken care of comfortably.

30 MR. LEWIS: Comfortably, in one half day,

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1 on a Tuesday?

2 THE WITNESS: Yes.

3 MR. LEWIS: It is true, is it not, Mr. Hamilton,

4 that a number of the administrative assistants, the names

5 that come to mind are names like (Art Darnborough and Tony

6 Corborough)

7 and people of that kind, take a lot of engagements in

8 speaking obligations for the Board outside the Board in

9 the community?

10 THE WITNESS: Constantly.

11 MR. LEWIS: Constantly, as a regular

12 procedure themselves?

13 THE WITNESS: Yes. In all fairness to

14 Mr. Cauley, I think they are doing a lot of the work he

15 did at that time.

16 MR. LEWIS: He took a great many of those

17 engagements?

18 THE WITNESS: Yes, I think he did.

19 MR. LEWIS: Despite that he seems to have

20 quite a remarkable attendance record where claims were

21 concerned?

22 THE WITNESS: Yes, but I think over the

23 years Mr. Cauley attended a lot of these where the admin.

24 people are now doing and they are not so much speaking

25 engagements as they are seminars where they are information

26 sort of things.

27 MR. LEWIS: So a number of people are now

28 doing the work of one man at the time.

29 THE WITNESS: If you want to so interpret

30 it.

MR. LEWIS: I think I am interpreting what

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1 | you said and yet I am noting that, despite that, despite
2 | all the outside engagements, seminars, whatever they may
3 | be, Mr. Cauley still found it possible to attend 80% or
4 | 90% of the claims appeal hearings. It is therefore not
5 | impossible to combine the two?
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1 THE WITNESS: I don't quite get you.

2 MR. LEWIS: It is not quite impossible to com-
3 bine outside activities of speaking and seminarying and
4 whatever one does and to give strong attendance at
5 claims appeals hearings?

6 THE WITNESS: The only way you can do it
7 is
8 successfully now, /to use your weekends, Mr. Lewis,
9 use a Sunday or a Saturday and you might be able to
10 get away with it on a Monday, but the Tuesday, Wednesday,
11 Thursday, Friday is pretty well taken up with the
12 business of the Board either administratively or other-
13 wise and I have on occasions as have others used a
14 Sunday or a Monday to do it or a Saturday, but that is
usually when you do it.

15 MR. LEWIS: I wanted to raise a whole
16 matter of internal procedure, Mr. Chairman, but I gather
17 that that should wait for a further session?

18 THE CHAIRMAN: I think so.
19 Have you completed?

20 MR. LEWIS: Yes.

21 THE CHAIRMAN: Mr. Gaunt says he has a
22 brief question and then we are about to adjourn.

23 MR. GAUNT: Mr. Chairman, this is just a
24 followup of Mr. Ferrier's question and Mr. Hamilton
25 had indicated that in his view there was -- I think the
26 term he used "scattered discontent" or a few members
27 within the various unions who may be unhappy with the
28 new appeal system, but generally speaking there was no
29 widespread discontent -- I think that was ---

30 THE WITNESS: That would be my view.

1 MR. GAUNT: I think that was the import of
2 what you said. I just wondered more for clarification
3 purposes than anything, have the various unions that
4 were obviously unsatisfied with the new system back in
5 '69 and '70, for instance, the United Steelworkers of
6 America, I think they expressed some dissatisfaction,
7 the Provincial Building and Construction Trade Councils
8 of Ontario, they expressed some dissatisfaction and I
9 think there was another union as well -- well, in any
10 case, did those unions -- have they come to the position
11 that they now accept the new system, by and large, having
12 seen it operate for a period of time?

13 THE WITNESS: I think many of them have;
14 I don't think all of them have, but I think many of them
15 have.

16 MR. GAUNT: What about the Brotherhood
17 of Maintenance employees, that they were rather
18 critical, perhaps as critical as anyone?

19 THE WITNESS: I don't know what their
20 position is.

21 MR. GAUNT: You have no personal contact
22 and you really don't know what their stance is with
23 respect ---

24 THE WITNESS: No. As I say, there are
25 2,000 locals in Ontario against 15 or 20 that are
26 discontent. It's important, but not significant.

27 MR. GAUNT: Do you happen to know Mr.
28 Devlin?

29 THE WITNESS: Mr. Devlin? No.

30 MR. GAUNT: Who is the Provincial Legislat-

1 || Give representative for that group?

2 THE WITNESS: I think I met him, but I
2 don't actually know him.

4 MR. GAUNT: But you have had no actual
5 contact with him on these matters or other related
6 matters?

THE WITNESS: No.

MR. GAUNT: All right.

9 THE CHAIRMAN: One brief question from
10 Mr. Wiseman.

11 MR. WISEMAN: Mr. Hamilton, I wondered, you
12 mentioned four of the organizations that Mr. Legge
13 belonged to. Do you not believe that this is good public
14 relations for the Board chairman to make himself available
15 to these organizations? Now two or three of them are
16 accident prevention and ---

17 THE WITNESS: I didn't suggest anything
18 to the contrary. I have no quarrel about that.

19 MR. WISEMAN: If he would spread himself
20 around, you must have organizations you belong to as well?

21 THE WITNESS: That is true.

22 MR. WISEMAN: I just thought that it was
23 good public relations for a man in such a position to
24 belong to these organizations.

THE WITNESS: Mr. Legge can speak for him-
self about why he participates. All I simply said is
that I thought it took him away from the Board a little
more than I thought it should, that's all.

29 THE CHAIRMAN: Mr. Donnelly?

MR. DONNELLY: Mr. Chairman, Mr. Cauley's

1 counsel has asked me to inquire on his behalf if he might
2 now be excused. He has a business commitment elsewhere and
3 his counsel intends remaining and following the proceedings,
4 and I think Mr. Cauley would be available for recall at
5 the Chairman's request if he is required. Is that your
6 position?

7 MR. LAPKIN: That is correct.

8 MR. ALLAN: You mean excused from future
9 sittings?

10 MR. DONNELLY: I think he will come back
11 if requested, sir.

12 THE CHAIRMAN: The Committee is agreeable
13 to that.

14 We are adjourned until 8:00 this evening.

15 --- Upon adjourning at 6:00 p.m.
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1 --- Upon resuming at 8:15 p.m.

2 THE CHAIRMAN: Would you come to order?

3 Counsel, I believe we completed the
4 questioning of the last witness, Mr. Hamilton.

5 MR. DONNELLY: May I call the next witness,
6 sir, Mr. Legge, please?

7 THE CHAIRMAN: (Swears the witness)

8 BRUCE LEGGE, Sworn:

9 EXAMINATION BY MR. DONNELLY:

10 THE WITNESS: Mr. Chairman, may I have
11 your permission to make a very brief opening statement,
12 please?

13 THE CHAIRMAN: Certainly.

14 THE WITNESS: This is with respect to the
15 nature of my work at the Board because there has been
16 a suggestion here that I have failed to give enough
17 attention to the adjudicative hearings of the Board.

18 Everyone with serious duties to perform
19 has the problem of allocating time with some priority
20 for the important over the less important. I have
21 endeavoured to give my time in those areas where it would
22 be of most value to the work of the Board and not in
23 areas where there were other equally or more competent
24 people to do the work. Because of my previous training
25 I had anticipated when I was appointed that I would
26 spend a good deal of my time on the adjudicative hearings
27 which was going to become more important in the contem-
28 plated changes in the functioning of the Workmen's
29 Compensation Board, but it didn't turn out that way.

30 The Committee has been advised that the

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1 responsibilities of all Board members are the same. Now
2 this is certainly not true in practice because some of
3 the Board members have special expertise in some areas
4 and therefore accepted a greater responsibility in those
5 areas. Mr. Cauley, for example, had a special relation-
6 ship with organized labour and he exercised a very
7 special role in dealing with them. He also was under-
8 standing and sympathetic to the problem of the workman
9 with a claim and was a very important member of the
10 Board when it sat as an appeal tribunal and he was
11 good at it.

12 Mr. Sparrow, my predecessor, because of
13 his industrial background was able to play a special role
14 with safety associations and Dr. Steele gave a great
15 deal of time to the consideration of medical problems
16 and policies and again played an important role to the
17 Board as an appeal tribunal because of his professional
18 competence.

19 From the time I came to the Board I have
20 had to assume the role of a chief executive officer and
21 the management of a great many of the Board's day to
22 day operations come to me for advice through Mr. MacDonald
23 and in meetings with officers. Emergency situations
24 very naturally are brought to me. Major matters of
25 policy, of course, go to the Board for discussion but
26 prior thereto there is always necessary consultation
27 with me to prepare the facts and information necessary
28 to obtain the Board's policy decision.

29 Having regard to the size of the Board's
30 staff and the magnitude of the problems it is essential

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1 that on many days I be available to deal with these
2 administrative matters. Under the old system of
3 adjudication there were few live hearings at the Board.
4 In fact the adjudication hearings of the Board were held
5 at the rate of about 18 a year, 18 a year in 1964, the
6 last year of the old system. In 1965, which was only
7 a partial year of the change, the effect was to increase
8 it to 25. By 1966 the appeals had risen to 108 and in
9 the last full year, 1971, there were 211 adjudication
10 sittings of the Board to hear appeals.

11 It has also fallen to the chairman to be the
12 principal interpreter of the Board to industry, workmen
13 and the public and this has involved me in many societies
14 and organizations which I consider important in this
15 role of explaining the Board to industry, the professions
16 and labour. For example, 1964-65 I was Chairman of the
17 Institute of Public Administration and on its national
18 executive. In 1969 I managed an international seminar
19 in Toronto on rehabilitational programmes in workmen's
20 compensation in related fields. I sit on the Advisory
21 Board of the Federal Minister of Manpower and Immigration
22 for Disabled Persons; I am Vice-President for the
23 Canada Safety Council; in 1966 with the expressed approval
24 and permission of the Government of Ontario I was a
25 chairman of an inquiry into Workmen's Compensation in the
26 Northwest Territories and in the Yukon. I had to go to
27 the Territories and I used my holidays for this purpose.
28 I am called on to speak on a great many occasions and I
29 regard this as an opportunity to explain the operations and
30 policies of the Board.

1 In 1968, again in 1971, Hickling-Johnston,
2 a firm of management consultants were invited to evaluate
3 the Board's senior positions to advise the Government of
4 Ontario on salary levels. The result of their study
5 which recommended a differential between the salary of
6 the chairman and the other members recognized that there
7 is a difference in responsibility because the chairman
8 must be the chief executive officer. In the years
9 following my appointment we were going through the re-
10 organization which has developed the present adjudicative
11 system and since I had then two members of the Board who
12 had many years of claims experience with the Board in its
13 adjudicative role I devoted a large part of my time to
14 the administrative functions and was not able to attend
15 a great many hearings of the Board. I anticipated that
16 the re-organization would be accomplished in a year or
17 two and that I would be able to sit more frequently as
18 an adjudicator. But I found that this was not possible
19 and that the role of guiding the organization continued
20 to take my time until this current year when I find that
21 I am able to give more time to adjudication.

22 I have had a sheet prepared showing both
23 meetings of the Board to conduct its administrative
24 business and the adjudicative sittings. It will be
25 noted that except for a period in 1966 when I was engaged
26 in the inquiry into compensation in the Northwest
27 Territories and a period in 1971 when the Canada Safety
28 Council and other similar organizations took some of my
29 time that I missed a very small number of administrative
30 sittings of the Board. It will also be noted from the

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1 record of the Board that my attendance at adjudicative
2 sittings was unavoidably scanty in 1968 and 1969. In
3 those years, those two years, I had five different
4 commissioners, all of whom were skilled administrators,
5 with the demands of the Board -- were skilled administrat-
6 ors and the competing attention was that I staged an
7 international seminar and I was also lent to the Govern-
8 ment of New Zealand and Australia at their expense to
9 advise on matters of safety, rehabilitation and compen-
10 sation. The adjudication, Mr. Chairman, was willingly
11 undertaken by my skilled colleagues.

12 It is probably difficult to understand, but
13 when the Board decided in 1965 to organize and implement
14 the functional re-organization and re-organization of the
15 appeals structure it appeared to be a task that could be
16 carried out by a series of reassignment of duties and
17 changes in reporting structure. But instead of it being
18 a simple task it became a very complex one requiring a
19 tremendous amount of time and human relations. To make
20 the changeover new personnel had to be engaged in some
21 cases and endless time had to be extended and planned to
22 explain to employees who had long service with the Board
23 the change in duties and the responsibilities that were
24 involved. This meant endless meetings with the principal
25 officers and managers and instead of being accomplished
26 in a year or two has required more than five years.
27 Because of the competence of the other members to conduct
28 the adjudicative hearings I felt that the management and
29 human relations task were the most important and I devoted
30 as much time to them as was required to accomplish them

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1 smoothly.

2 Q. Mr. Legge, does that conclude your
3 opening statement?

4 A. Yes, sir.

5 Q. Sir, before I deal with specific
6 areas I wonder if you could give us some general back-
7 ground about when you came to the Board and met the
8 other commissioners and how you established your familiar-
9 ity with the job and came to these changes in the appeal
10 procedures?

11 THE CHAIRMAN: May I interrupt for just
12 a moment?

13 MR. DONNELLY: Yes.

14 THE CHAIRMAN: It just struck me, I was
15 wondering if before we proceed if you, Mr. Legge, wanted
16 to deal with some of the allegations that were made
17 especially on the morning of April 5th as Mr. Hamilton
18 did in his opening remarks this afternoon?

19 THE WITNESS: Well, I am prepared to answer
20 questions on that, Mr. Chairman. I didn't prepare any-
21 thing.

22 THE CHAIRMAN: I just wondered whether you
23 wanted to proceed in the manner in which things are
24 going along at this moment.

25 THE WITNESS: Essentially I am at your
26 disposal.

27 THE CHAIRMAN: Did you wish to have any-
28 thing further to say?

29 THE WITNESS: I had planned no statement
30 on that particular ---

1 THE CHAIRMAN: Would you wish to deal with
2 any of these matters at this time?

3 THE WITNESS: I don't think at this time,
4 sir, but as it evolves, certainly.

5 MR. DONNELLY: Mr. Chairman, I can advise
6 the Committee that I have had discussions with Mr.
7 Austin who appears with Mr. Legge and I think I know
8 generally the approach and the background material that
9 he would prefer to take and with your permission I will
10 go on if I could.

11 THE CHAIRMAN: Yes.

12 MR. DONNELLY: I was asking you if you would go on
13 with your arrival on the Board, after your arrival there,
14 sir?

15 A. After I arrived there essentially
16 in March of '65 from the Pension Service I found it a
17 very famous organization, it was operating in ways that
18 might gradually be changed in the light of what people
19 might call modern procedures to do with appeals, such
20 fundamental ideas that a person who is rejected has a
21 right to know the reasons why his case wasn't granted a
22 person who wishes to confront the people who decide in
23 his case should have the right to a live hearing. These
24 were ideas that were brought forward at the beginning.

25 Do you want me to pause for air?

26 Q. I would be in your hands, sir, but
27 to continue -- did clearing up this existing situation
28 and becoming familiar with it and deciding a course of
29 action, did that consume some time or how did you go
30 about that?

1 A. Yes, I would say, sir, that I didn't
2 really take any role except that of a student until the
3 summer of 1965, but through that period I tried to meet
4 all the people to read what was going on, to talk to
5 everybody and that sort of familiarization program.

6 Q. Specifically in that time what was
7 your relationship with Mr. Cauley, sir?

8 A. Well, I thought that it was very
9 friendly.

10 Q. And you were contemplating changes
11 at that time, were you, in the early stages?

12 A. I was trying to persuade the Board
13 because this was something I knew a little about from the
14 other side of the table having represented veterans for
15 15 years -- I was trying to persuade the Board that on a
16 gradual basis we should try to improve the adjudicative
17 system.

18 Q. What had Mr. Cauley's old functions
19 or role been in the adjudicative process up until this
20 time?

21 A. I think it is fair to say that up
22 until that time Mr. Cauley functioned as the chief of
23 the whole claims service. And I am not saying that in a
24 derogatory way at all, but rather a flattering way, he
25 did it very well in the Terms of Reference that they had.
26 I would have to say to be fair at the same time that Dr.
27 Steele, the medical commissioner, functioned as the chief
28 of the medical service and to whatever extent it was
29 being done he was also in a way the chief of the rehabili-
30 tation service. I found out in the course of my studies

1 at the Board that my predecessor who was an industrialist
2 had specialized in the field of safety, the accident
3 prevention, the Safety Association in which he was very
4 famous and well known and very active. The general
5 management of the Board, therefore, did not come under
6 any particular purview which the corporate structure
7 of three members would envisage but the management was
8 done, the finance by Mr. MacDonald, the secretarial work
9 by Mr. Poole and that sort of thing. So there wasn't
10 an overall functional management.

11 Q. And dealing specifically with the
12 changes in the appeal structure, was that accomplished
13 by an order of the Board?

14 A. Yes. Papers were prepared after
15 considerable discussion and that were presented to the
16 Board and the Board order was signed.

17 Q. By whom? Do you recall?

18 A. Yes, sir. It was signed to the best
19 of my recollection by Mr. Cauley, Dr. Steele and me.

20 Q. Did you have any indications from
21 Mr. Cauley then about his acceptance or otherwise in
22 the changes in the appeal procedures?

23 A. No, he participated in the discussion
24 and he seemed to be willing to give it a trial.

25 Q. There was some reference by Mr. Cauley
26 I think on one of the days when I wasn't here possibly
27 to some attempt to have him replaced on the Board.

28 Can you tell us, sir, did you make any
29 representations at any time relative to replacing him or
30 putting someone else in his place or anything of that nature?

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EXHIBIT NO. 62:

Copy of "Attendance at Board Meetings
and Hearings from 1965 to 1972."

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1 A. Oh, I never played any part of that
2 role.

3 Q. Were you aware of any such attempt
4 being made?

5 A. I never heard of anybody trying to
6 replace him. When he resigned I believed that he was
7 in ill health.

8 Q. Now it seems apparent really from
9 the evidence we have heard here that at times there
10 were different points of view taken by you and Mr. Cauley
11 in certain matters. Can you help us on that, sir?

12 A. Not very much except by hearsay.
13 I remember two discussions, both of which were cordial.
14 Mr. Cauley and I never had any arguments at any time.
15 One discussion that I recall -- I am talking about
16 discussions out of the boardroom -- one discussion I
17 recall was when he invited me to his office and we
18 talked about the necessity of the Board operating as
19 a Board and one of the things that sticks in my mind
20 was that he said that he was descended directly from
21 Mary Queen of Scots and that therefore I should be able
22 to trust him, and I said that I did trust him and that
23 that wasn't a problem and that discussion was to the
24 corporate responsibilities seemed to be a matter of
25 agreement. The only other occasion that I can recall
26 was one time he asked to speak to me in my office which
27 was done at great length, and he talked about what he
28 thought were my lack of administrative qualities and
29 he spoke with great candor, but not in an offensive way
30 and he meant by this, after interminable discussion, that

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1 what was wrong was that the Board, which by then was well
2 established as the final organization of appeal in the
3 system, that the Board members should be able to see
4 what was going on at a lower level of appeal which was
5 really a reversion to the previous system because the
6 existing appeal system can only function if the claims
7 officer is an expert and an independent and impartial
8 expert. If the member of the review committee is an
9 experienced and independent and impartial person and
10 similarly with the claims officers and members of the
11 Board. If Mr. Hamilton if I can put in the present
12 context for example were to go down to the claims
13 officers and say, "What are you working on?" and say,
14 "I wouldn't decide it that way," then of course we
15 wouldn't be able to deal impartially should that case be
16 appealed to the Board. So it was this area of the right
17 to look over the shoulder of the adjudicators that we
18 discussed. And this may have taken an hour and a half
19 or two hours, it was the better part of a morning, and
20 after it was over, he said, "Well, no hard feelings" and
21 shook my hand and I thought that the matter was in each
22 other's mind but apparently not so. I am trying to fix
23 in time the long claims discussion and I would say to the
24 best of my recollection, and I have no notes of this, to
25 the best of my recollection it would have been in the early
26 part of 1969.

27 Q. Sir, one of the specific criticisms
28 I think that was levied and was made by Mr. Cauley earlier
29 was to the effect that you may have been overly abrupt
30 with delegations or perhaps even with other Board members

20/3 1 and suggested that you would even have left the room
644 2 or something of that nature, and could you give the
3 Committee any assistance on that?

4 A. Well I will certainly say my point
5 of view with the greatest of pleasure. I try not to be
6 abrupt let alone overly abrupt; I can never in my life
7 remember being rude to Mr. Cauley nor can I remember
8 while he was at the Board that he was ever rude to me.
9 We didn't have that kind of relationship. I certainly never
10 left any discussion at any time peremptorily or abruptly.
11 I think it was mentioned about the Railway Brotherhood
12 meeting and we do have some notes of that which are
13 very, I think, full, and it concerned a meeting early in
14 1966 -- if you are interested I can report ---

15 Q. I think that is important. The way
16 it came to me or the reference I have got, there is
17 some quotation,

18 "Mr. Legge plays no favourites when he
19 walks out. When somebody disagrees with
20 him he shouted 'That's it' and will never
21 discuss what is to be ---"

22
23 and I don't know whether that's a quote because it
24 didn't come from the transcript, it came from notes, but
25 words to that effect.

26 A. Would you like me to deal with the
27 Shepherd incident first then, sir, because I could
28 easily do that.

29 Q. If you would.

30 A. First of all, the meetings with the

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1 representatives of Dominion Foundries and Steel Company
2 of Hamilton took place on the 11th of December, 1969
3 at 3:30 in the afternoon. The previous correspondence
4 was of this order: the Minister of Labour talked to
5 Mr. Shepherd and his people and my letter to Mr. Shepherd
6 of the 25th of November in part reads this way:

7 "Mr. Bales has now requested me to invite
8 you to come to the Board to review any
9 problems which Dofasco may have with us.
10 My colleagues and I would be delighted
11 if it were convenient for you to see us
12 at any of the following times in the week
13 of the 8th of December which I am given
14 to understand is the first opportunity
15 you will have of coming to the Board.
16 Ten thirty to twelve o'clock, December
17 10th; 10:30 to 12:00 o'clock, December
18 11th; from 3:30 December 11th; 10:30 to
19 12:00 o'clock December 12th; from 2:00
20 p.m. December 12th."

21 and the usual friendly ending,

22 "I look forward to meeting you and I
23 hope that one of these times will be
24 convenient to you,"

25 to which Mr. Shepherd responded,

26 "Thank you very much for your letter of
27 November 25th. I have checked with Dr.
28 Martin, our senior medical officer and
29 some other members of our staff, and the
30 date of December 11th at 3:30 p.m. appears

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1 to be one which we are all clear. We
2 shall be in your office at that time.
3 At the moment I expect that Dr. Martin
4 and I will be accompanied by Mr. D. A. R.
5 Pepper, our director of personnel, and
6 (Mr. W. L. Wallace) your assistant works
7 manager. Thank you again for arranging
8 this meeting and we are looking forward
9 to it."

10 Then as to the actual meeting there are five pages of
11 closely typed minutes for this meeting. Those who
12 attended the meeting for the Board were the Board of
13 that day which was Mr. Johnston and Mr. Poole and myself,
14 and with them were three people from the Board, Mr.
15 MacDonald, general manager, Dr. Powell, the chief
16 of medicine and Mr. Farquharson, the assistant manager.
17 For Dofasco came the executive vice-president of finance,
18 Mr. J. G. Shepherd, Dr. Alex Martin, senior medical
19 officer, Mr. D. A. R. Pepper, director of personnel,
20 Mr. Wallace, assistant works manager and Mr. Pritchard,
21 the safety director.

22 Q. I don't think it's necessary for
23 you to read the minutes but you have them, so then could
24 you file them, sir?

25 A. Yes, sir, we would be delighted
26 to file them and they run five pages.

27 Q. You also wanted to tell us about
28 another meeting, sir. Could you tell us about that?

29 A. Yes, I could.

30 ---EXHIBIT NO.63 : Minutes of the meeting with Dofasco
on December 11th at 3:30 p.m.

Legge

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1 THE WITNESS: I have a minute -- there was
2 also a reply which my friend Mr. Hamilton thinks I should
3 read which goes like this, dated the 15th of December, 1969:

4 "Dear Mr. Legge:

5 Just a brief note to say thank you very
6 much for arranging a meeting with our
7 people during a very busy season,"
8 and that was by Mr. Shepherd.

9 MR. DONNELLY: Q. May that be filed also
10 please?

11 A. Yes.

12 ---EXHIBIT NO. 64: Letter from Mr. Shepherd dated
December 15, 1969.

13 MR. DONNELLY: Q. Now the significance
14 of that meeting or the reason you bring that to the
15 Committee's attention is you do you believe that to be
16 the reference made of the other testimony, the Shepherd
17 meeting?

18 A. Yes, I do. That was the only one
19 that I can ever recall with Mr. Shepherd in the boardroom.

20 Q. Then would you go on -- there is
21 another meeting you wish to tell us about, sir?

22 A. Yes, sir. There is a heading called
23 the "Presentation of Brief from the International Railway
24 Brotherhood" and those present were Legge, Cauley and
25 Steele, the Commissioners, and Mr. MacDonald, Mr. Poole
26 and the then secretary counsel to the Board, Mr. Lane.
27 For the International Railway Brotherhood was Mr. Walter,
28 Mr. Devlin, Mr. Gibbs, Mr. Hounscome, oh no, Mr. Easterbrook,
29 Mr. Culliton, Mr. Martindale, Mr. Maffei and the
30 subject matter was (1) of the system of appeals, (2) the

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1 reasons for changing to the new system and (3) the delay
2 in claims. It is simply reported in half a dozen
3 sentences: "The Chairman explained the appeal
4 system in detail and furnished statistics
5 to show a decrease in delay in handling.
6 Mr. G. S. Black, Mr. W. R. Kerr and Mr.
7 S. Crisp were presented to the delegates
8 as claims department supervisors. Mr.
9 G. A. Inglis, Miss F. Bancroft, Mr. D.
10 Farguharson, Mr. N. Snutch and Mr. G.
11 Fortune were presented to the delegates
12 and their various functions were described.
13 Questions were invited. Mr. Martindale
14 questioned Mr. Inglis with regard to reading
15 a claim file. Mr. Inglis gave a complete
16 explanation of the Board's policy in this
17 area. Mr. Culliton questioned Mr.
18 Black about a specific form letter sent
19 out by the Claims Department and they
20 both adjourned to the second floor to
21 examine the actual claim file. As there
22 were no more questions the meeting
23 adjourned."

24 And that is signed by E. M. Lane which we can file with
25 the supporting correspondence.

26 THE CHAIRMAN: Mr. Donnelly, may it be
27 filed, sir, please?

28 ---EXHIBIT NO. 65: Presentation of Brief by International
Railway Brotherhoods.

29 MR. DONNELLY: Q. That was the meeting
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1 that was supposed to have taken three minutes?

2 A. Yes, it was infinitely more.

3 Q. There is another area I wish you
4 could deal with if you could and that is the question
5 of the military and your leaves and absences from the
6 Board. Could you tell us about that, please?

7 A. Yes, I can. Since 1938 I have been
8 in the military in some capacity or other in Canada and
9 when I came to the Board I was a Lieutenant Colonel
10 commanding a unit in the garrison and I carried on with
11 not as much activity as commanding a unit but continuously
12 with some sort of military activity in my spare time in
13 the reserves.

14 Q. And has the participation in the
15 military interfered with the time required or the effort
16 required by your responsibility to the Board, sir?
17 I think that is the problem.

18 A. That would seem to be the problem
19 but in my opinion it is not. Sorry, sir, I find that
20 for example, and I will be prepared to file a chart of
21 this if it would help you, Mr. Chairman, that since 1965
22 my absences from the Board aside from Board business,
23 the total absences from the Board business are 20 days
24 a year which is one month, and this is comprised of
25 what is called sick leave and I was sick for three days
26 in 1966 on coming back from the Yukon. I took holidays
27 in the same year to go to the Yukon which was 20 days;
28 I took one days holiday in 1968 and three days holidays
29 in 1971 and that is all. I took therefore 24 days of
30 holidays in seven and a bit years with the Workmen's

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1 Compensation Board. I have had from, say, seven to 21
2 days leave for military purposes each year; they were
3 19 days in 1965, 21 days in 1966, 20 days in 1967, seven
4 days in 1968, 13 days in 1969, 21 days in 1970, 16 days
5 in 1971 which averages out for all purposes less than --
6 well I think exactly 20 days a year. Sick, holidays
7 and military leave.

8 Q. Can you explain to the Committee
9 what arrangement, if any, you have with the Minister of
10 Defence for payment for these days, sir.

11 A. Yes. All people serving in the
12 militia are entitled to some kind of pay up to a certain
13 number of days pay a year. I am paid for an evening
14 a half day's pay. If I go on a Saturday or Sunday I am
15 paid a day's pay or a half day, depending on how long the
16 time is. However, to be candid with you I am not paid
17 for the major sources of my absence on military leave.
18 For some years I have been one of the three Canadian
19 delegates of reserve officers to NATO and when I go there
20 I am not paid any military pay, and in fact I have to pay
21 as do the other two delegates who change from time to time
22 their own living expenses. They are flown over in an
23 Air Force airplane and that sort of thing which is twice
24 a year for the executives. In the winter time it takes
25 two days and in the summer time it is about a week.

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1 Q. Mr. Legge, I think it is a concern of
2 this Committee whether or not you comply with Section 61
3 of the Act which I understand requires that you devote
4 your full time in the performance of your duties?

5 A. Yes, I perform my duties full time.

6 Q. And we have been told that you have
7 other activities and I think that Mr. Hamilton mentioned
8 several and certainly some of them were in connection
9 with your position.

10 The opinion was expressed that because of
11 these activities you probably were not available for
12 Board duties as is desired.

13 Have you any comment to make on that, sir?

14 A. I think that it is essentially a
15 matter of opinion and Mr. Hamilton who is a very candid
16 friend and I think it much better that way -- in my opinion
17 all of my outside activities are Board oriented.

18 Q. Does that include the military as
19 well, sir?

20 A. If you like, I am prepared to say
21 that being a reserve soldier is not specifically Board
22 oriented but it has always been government policy that
23 the reserves will be supported and I have put in the time
24 that I have said and that's all. I don't think it is in
25 any dereliction of my duties with the Workmen's Compen-
26 sation Board and it seems to me that the figures support
27 that.

28 Q. Mr. Hamilton was equally candid, in
29 that he described you as a very good adjudication officer
30 or words to that effect.

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1 A. I can certainly say the same for him.

2 Q. The point that I was going to come
3 to, sir, is that the Committee has expressed some concern
4 about the absence of the Chairman in a great many
5 adjudication claims?

6 A. Yes. This was particularly unsatis-
7 factory from my point of view. In several years, which
8 I alluded to in my statement ---

9 Q. I understand you have given us some
10 statistics there. I think the point is this: for some
11 reason, sir, you were not at many of these adjudication
12 claims?

13 A. Oh yes, but it has nothing to do with
14 the military or with being sick or with wasting my time,
15 it had to do with the management of the Board, as the
16 opening statement says, and it had to do with, again,
17 a matter of opinion, the Board related activities.

18 Q. I wonder if you could be more
19 specific by what you mean about the management of the
20 Board other than the adjudication. What was it that
21 took you away from the adjudication but kept you on the
22 Board duties?

23 A. I wonder, sir, if it would be a good
24 idea to look at the sheet which was filed and which shows
25 a pretty accurate score of all these things and I would
26 be very happy to deal with them -- special things. For
27 example, in 1969, which from my point of view was the
28 most pressing year that I had at the Board -- you will see
29 that in 1969 we had four commissioners that year and they
30 were all good at adjudication so they could do adjudication

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1 and I, that year, had to run the International Seminar
2 on Rehabilitation which was brought to Toronto by
3 International Rehabilitation and the same year I was lent
4 to the Government of Australia and New Zealand at their
5 expense for a month to advise on compensation and
6 rehabilitation and safety, and in the same year I had to
7 do a major seminar and paper based on the Board's research
8 project, the Economics of Rehabilitation, which was
9 given in Golway and in Dublin, Ireland, in September.
10 So without citing all the things that had to be done that
11 year, it was simply a guess as to what is best to do
12 with your time. There were a variety of commissioners,
13 their skills were adjudicative; there was this, in my
14 opinion, rather heavy workload of activity in three
15 different countries, here -- four different countries --
16 Australia, New Zealand and Ireland, and I assumed that
17 workload and I worked very hard.

18 Q. Would you care to make any comment
19 about 1970, sir?

20 A. Yes. In 1970, I attended I think
21 about half of the adjudicative hearings. I gave a major
22 paper which was -- which required a great deal of research
23 to the World Committee on Medical Law in Washington which
24 had to be written. I was the First Vice-President of
25 the International Association of Industrial Accident
26 Boards and Commissions which are all the boards of all
27 the American jurisdiction, the Australia, the New Zealand
28 and Canadian, and that took a great deal of time. But
29 things were starting to pick up in 1970 and I felt that
30 I was attending more of the adjudication and I think that

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1 if you look at the system of the Board as it now is that
2 the chairman will be able to function at the adjudication
3 in between, say, 50 and 75% of the cases because, as
4 Mr. Hamilton so clearly said, the Board is now organized
5 so that it really adjudicates on two and a half days a
6 week instead of across the five and it is easier to plan
7 accordingly and I think that we have turned that road.

8 Q. Tell me, sir, do you have an opinion
9 as to whether or not it is preferable to have three
10 commissioners hear the appeals rather than two?

11 A. This depends on who the commissioners
12 are.

13 Q. Well I assume that you are one of
14 them, aren't you?

15 A. Yes.

16 Q. Just before we leave that, you being
17 one, is it an advantage to have you there then?

18 A. Oh, I would hate to say that. I
19 think as to the generality, it is better to have three
20 experienced men than two just in case there is a conflict
21 as to the way the evidence is viewed.

22 Q. And if you are not available, are
23 on other duties, although they are related to the Board,
24 is it your practice to have two men or three hearing the
25 appeals?

26 A. Until the advent of Mr. Hamilton
27 it was the practice to have two. Now it is firm Board
28 policy and I support Mr. Hamilton on this implicity,
29 that wherever possible we will have three. That is the
30 present policy.

1 Q. One of the Committee members before
2 supper was I think exploring the possibility that that
3 invent may cost money, in other words, if you are not
4 there someone else is there and he is on a per diem
5 or how is he paid, or in your absence what are the
6 financial arrangements about a third replacement?

7 A. Well, it matters not which one of us
8 is absent. Mr. Poole is the one appointed by Order-in-
9 Council as the commissioned pro tempore and I suppose only
10 Mr. MacDonald could tell you exactly how he is paid but
11 it is my understanding that the Order-in-Council provides that
12 he gets a per diem -- if he comes for a case he gets a day's
13 pay.

14 Q. What if he hears two cases on that
15 day?

16 A. Well he would get the same pay, sir.

17 Q. The same pay?

18 A. To come back to your question which
19 I wasn't purposefully avoiding -- I have kind of lost the
20 thread of it but I think it had to do with whether or
21 not the expense is warranted. To me it is certainly
22 warranted. If it makes for a more agreeable adjudication
23 then I would support it entirely.

24 Q. Now do you have any comment to make
25 about 1971, sir?

26 A. Nineteen seventy-one was the first
27 year that we had a permanent Board, you know, for the
28 whole year, in many years, of Mr. Decker and Mr. Hamilton
29 and myself and I think that the Board's operating
30 procedures, as you heard from Mr. Hamilton, are now so

1 well accepted by the Board that I think that I will be
2 able to attend a higher percentage of appeals than I
3 have before.

4 Q. I think there is a certain body of
5 thought that that adjudication is a very important, if
6 not the more important end of the business, sir. Would
7 you have any opinion to express on that?

8 A. Oh, I couldn't agree more which is
9 the reason I persuaded the Board to have this system. I
10 think it is implicit that a disabled person has enough
11 problems. If he is dealing with a tribunal, in a kind
12 of quasi-judicial body that has to hear his case, he has
13 to feel that those people know what they are doing, that
14 they care what they are doing and that they will give him
15 the benefit of reasonable doubt, and to me there is no
16 single function that is more important than the adjudication
17 function. I think that rehabilitation, the treatment,
18 that running the insurance company, running the hospital,
19 running the trust company, running the safety associations,
20 all of these things are really terribly important but
21 nothing is more important than the adjudication. What I
22 was trying to say, and perhaps badly at the beginning,
23 was that it is simply a matter of you only have so much
24 time and you have the skills of the people that are
25 working with you and in the past the skills that they had,
26 the best in those years of the temporary boards and
27 changing boards, the one thing that those commissioners
28 pro tempore had was a claims knowledge. Therefore, they
29 could adjudicate. In many instances, for example, they
30 wanted no part of the business management of that board

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1 whatever. And I don't say that in a deprecating way and
2 I say it purely factually because they were older men who
3 wanted to do only what they wanted to do easily.

4 Q. There is no suggestion then that there
5 is any thought on your part that the claims end isn't
6 sufficiently important to require the specific attention
7 of the chief executive officer then?

8 A. No, it has to be certainly one of
9 his major concerns, and on that score I think that
10 Mr. Hamilton would agree with me, that claims function
11 as such has never in the history of the Board been in
12 better shape. We have a brilliant young chief claims
13 officer, Mr. Azarello, and he has a following and they
14 work tirelessly at it and I am satisfied, completely
15 satisfied with the functioning of the claims as it is now.

16 Q. Much of the evidence at this
17 Committee has been towards the fact of the change in the
18 appeals procedure and the reception of that change
19 received and whether or not it was an improvement.

20 Do you have an opinion that you could offer
21 to the Committee about that?

22 A. I think that the changes, sir, were
23 inevitable; I think there is not a scintilla of doubt
24 in the minds of most people who are intimately concerned
25 with this kind of adjudication where you run to perhaps
26 400,000 new claims a year. I don't think there is a
27 scintilla of doubt that it is an improvement. I think
28 that there will always be people who prefer the old and
29 the familiar to the new and the changing; I think that
30 given the length of time that it has had that there are

21-8 1 very few serious opponents of the present practice. There
2 are, of course, many things that could be improved and
3 changed but it is the best that I have seen.

4 Q. Well speaking of that point of
5 improvement and change, as Mr. Hamilton properly brought
6 our minds to that and perhaps we should think ahead
7 rather than backwards, and he also said that there were
8 certain administrative changes that he thought might be
9 made and made by the Board and he indicated that two
10 persons on the Board could change an order or make an
11 order and thereby accomplish that effect. But the purpose
12 of that background is this: there has been some evidence
13 of perhaps discord in the Board -- perhaps not so much
14 in the last year or so but back in '69 and before. Could
15 you give us any information or background about that, sir?

16 A. Well, as to discord in '69, no, sir,
17 not at all. No open discord.

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1 Q. There was some suggestion that there
2 have been many of these senior long term officials or
3 employees leave.

4 Can you help me about that?

5 A. I can only help you to this extent;
6 that in accordance with the Board's policy on early re-
7 tirement, that because of the age of the people that there
8 are, I think, it has been bantied about, of the order of
9 50 people that have taken advantage of the Board's early
10 retirement policies to retire. In no case that I can
11 think of has it anything to do except with their personal
12 preference after a long and honourable life at the Board
13 to retire. I know of no evidence of any discord with
14 those people.

15 Q. Tell me, sir, I think the people will
16 want to hear about the Board's retirement policy. Would
17 you prefer to deal with that or leave it to one of the
18 other officers of the Board?

19 A. I can deal with it as to principle
20 only, sir. As to detail it would have to be dealt with
21 by the general manager. As to policy of principle, the
22 ideas are quite simple I think. It is felt that people
23 who have, say, put in 35 years at one organization may
24 be a little tired and may want to get out before they are
25 65, for example, so it is within the interests of the
26 Board rather than to have a time server that this kind
27 of person be allowed to retire and open the way for
28 people like Mr. Axarello, for example, that is one
29 faction. Another idea which has been discussed here
30 quite a deal is the question of early retirement on the

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1 grounds of ill health which is another idea. Those, I
2 think, are the two major concepts. The practices are
3 all set forth and Mr. MacDonald can deal with them very
4 easily.

5 Q. Once a decision is made on an early
6 retirement is it implemented by some order of the Board?

7 A. To the best of my knowledge, sir,
8 not specifically. I think it is a function of the
9 executive manager.

10 Q. We have had two Board orders filed
11 here, one relative to Mr. Cauley's retirement and one
12 relative to Dr. Steele's retirement, and each of them
13 makes reference to some benefit following the retirement.
14 I think Dr. Steele referred to some kind of a consultancy
15 fee and Mr. Cauley referred to some kind of an appointment
16 following his retirement, I think something to be
17 established, not fixed in dollars but to be established.
18 Can you help us as to what the Board policy is relative
19 to such benefits?

20 A. To commissioners?

21 Q. Yes.

22 A. Well, Mr. Poole, I believe, is on
23 retirement and he is a commissioner pro tempore which
24 means he gets paid when he comes to work for a day. I
25 am certain, although I can't put my finger on the details
26 at the moment, I am certain that Mr. Sparrow received
27 a consultancy. I recall that Dr. Steele received a
28 consultancy.

29 Q. Tell me, sir, did Dr. Steele render
30 anything in return for the consultancy?

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1 A. He was given several areas to deal
2 with, yes, sir.

3 Q. And did he render such service as
4 was requested of him?

5 A. I think it is still ongoing. I
6 would say in all candor perhaps we might have had more.

7 Q. Well the same thing I suppose applies
8 to Mr. Cauley; there has been nothing -- or I shouldn't
9 say nothing done. As far as we know there was nothing
10 done about the consultancy with him, was there?

11 A. No, nothing has been done.

12 Q. What was the reason for that, sir?

13 A. That is a very difficult question
14 which I will answer to the best of my ability.

15 I don't want to guess about it because we
16 have it here.

17 Q. Do you want a copy of the order, sir?

18 A. The Board order specifically said on
19 the 8th day of May, 1969 that, "After retirement in 1971
20 the consultancy fee will be estab-
21 lished for one year."

22 The Board has never specifically brought its mind to
23 bear on that problem for two reasons: The first is that
24 there is no specific need that has come to the Board's
25 attention and the second one is that I think with the
26 known and now publicized attitudes of Mr. Cauley to the
27 Board that a harmonious consultancy might be somewhat
28 difficult.

29 Q. Well my understanding of Mr. Bales'
30 evidence was that the consultancy originated with the

1 Board and not with him. Would you comment on that, sir?

2 A. Is that a fact?

3 Q. That is my understanding of his
4 evidence, yes.

5 A. Yes? It arose with the Board and
6 not with him. I don't know which chicken came first in
7 this instance. I can say with great confidence that
8 Mr. Bales knew incidentally about the consultancy. It
9 is my recollection that it was discussed very close to
10 the day of the Board order, but if he says that it
11 originated with us and not with him then it must have
12 been an ex post facto discussion with him. I am not
13 prepared to say anything more than that because I honestly
14 can't remember. Until you told me that he didn't know
15 in advance I would have thought that he had, but I am
16 quite willing to accept what you say. It was concurrent
17 discussion.

18 Q. The evidence would also rather
19 indicate that Mr. Cauley was not provided with a copy of
20 the Board order dated May the 8th, sir. Have you any
21 comment to make about that?

22 A. No, I have no real comment. The
23 Minister was dealing with Mr. Cauley. Had Mr. Cauley
24 requested any of this information -- furthermore, I am
25 quite certain Mr. Cauley could get any information he
26 liked at that time from the Board and we would certainly
27 have been happy to give it to him.

28 Q. Is there any reason why you did it,
29 sir?

30 A. None that I can think of.

1 Q. Was there any conscious ---

2 A. None at all. It was my impression
3 that he would have received it from the Minister.

4 Q. Would it be the Board's practice
5 that if the Board makes an order relating to someone's
6 severance that it would provide that person with a copy
7 of the order?

8 A. Oh, I think it could have easily
9 happened that way and I think we would have been very
10 happy to give him a copy of the order.

11 Q. Do you think you should have, sir?

12 A. I think that I should have and I can
13 tell you that I most certainly would have speaking for
14 the Board had I known he didn't have one. But my
15 assumption was that the Minister had given him one.

16 Q. Was there any punitive element in
17 not giving him one?

18 A. None at all, because in May of 1969
19 there was no confrontation between the Board and Mr. Cauley.

20 Q. Tell me, there is another matter that
21 I want to touch on if I can, sir, it goes back to the
22 law suit in 1965 and I am quite sure you will know the
23 law suit that I refer, Campbell versus the Board and
24 Cauley?

25 A. Yes.

26 Q. I don't really want to get lost in
27 the detail of a law suit but the very fact of the law
28 suit seems to make the Board wonder what the situation
29 was that such a thing could occur, such a dispute could
30 arise. Have you any general comment to make about that?

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1 A. Yes, I have. When I went to the
2 Workmen's Compensation Board the Director of Information
3 said that we have to have pictures of the commissioners
4 for the district offices and we will have pictures taken
5 and do you know a photographer," and I said, "Yes, Edmund
6 Soame," and he took pictures of the three commissioners,
7 Cauley, Steele and Legge and Mr. Cauley said, "I don't
8 like the pictures Edmund Soame has taken," and I said,
9 "Jack, that's fine. Nobody has to have monstrosities
10 hung around the country side," if he doesn't like them
11 find a photographer that pleases him and he went to
12 Gerald Campbell and apparently got pictures that pleased
13 him very well.

14 Q. That may not be the end of the story
15 though, sir.

16 The point that I want to direct your mind
17 to and maybe just a little more important is this: One
18 of the Committee members raised a question the other
19 day as to the type of instruction that was given to the
20 Board order to defend the action for the Board only and
21 not the vice-chairman. Have you any recollection of
22 the instructions that were given to your solicitor
23 at that time?

24 A. Just generally. I would like to
25 review the relative costs because I think that you will
26 have to put this in context. The pictures which were
27 taken of Dr. Steele and me came to \$163 each. There
28 was no charge made for Edmund Soame's failure to please
29 Mr. Cauley so that is of the order of \$326 for the
30 pictures for Legge and Steele. When Gerald Campbell's

1 account came in it frightened me to death because it was
2 for \$1,700. And we had an amicable discussion in the
3 boardroom in the state of shock that I was in and the
4 line of the discussion was -- which Dr. Steele supported
5 -- "Jack, nobody could pay... no responsible board could
6 pay \$1,700 pictures when for Steele and me it is \$326.
7 Why don't you go and try to see what has gone wrong
8 and negotiate a different kind of figure?" And nothing
9 happened about that but I believe that Mr. Hollingworth
10 negotiated with Mr. Campbell.

11 Q. May I interrupt you, sir. To whom
12 was that \$1,700 invoice sent, to the Board or Mr. Cauley
13 or both of you?

14 A. We don't have that. These things
15 are not present, but I believe it was to the Workmen's
16 Compensation Board.

17 Q. But it was given to Mr. Cauley to
18 go out and try to make some settlement, was it?

19 A. Yes, but I don't know whether he
20 did or not. But I do know that subsequently Mr.
21 Hollingworth, the Director of Information, went to
22 Gerald Campbell and said, "I want to know what the
23 Board's portion of this bill is for pictures that I
24 ordered for these information services." And he in fact
25 paid Gerald Campbell \$312 which was about the same order
26 of money that it cost for both Steele and me. So that
27 left a balance of some \$1,400 which became the subject
28 of a writ against Mr. Cauley and the Workmen's Compen-
29 sation Board. On hearing about this the Board instructed
30 the solicitor to investigate which he did and subsequently---

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1 Q. Just a moment. Was that the entire
2 Board, sir, was that a certain member of the Board or
3 do you recall?

4 A. No. I recall that the earlier
5 discussions had -- the three of us, which was prior to
6 Mr. Cauley's heart attack -- Mr. Cauley, Dr. Steele and
7 me.

8 Q. I suppose there is probably a date
9 on the writ which will show when it was issued?

10 Have you a copy of it there?

11 MR. SINGER: Probably when it was served.

12 THE WITNESS: The service was accepted by
13 the solicitors.

14 MR. SINGER: Yes, but there would be a
15 date for that which might be more significant.

16 MR. DONNELLY: Thank you, sir.

17 Q. Is it indicated on the copy the
18 date on which it is served?

19 A. We are trying to find it. I haven't
20 got it.

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1 The writ was served -- was
2 issued on the 19th day of November.

3 Q. It doesn't necessarily
4 have to be on there, it may not be, but in any event
5 it was issued on November 19th and the affidavits were
6 dated on the 2nd of December we know, so I suppose it
7 was served in that interval.

8 As a result of a writ being served, what
9 did the Board do, sir?

10 A. Well, to the best of my recollection
11 the Board met as a triumvirate, the three of us met, the
12 Board solicitor and secretary, Eric Lane, the people that
13 knew something about it who talked to the Board and the
14 agreed instruction was that Mr. Lane would deal with it.

15 Q. I am sorry, I didn't hear that, Mr.
16 Lane would ---

17 A. Deal with the matter.

18 Q. In any specific terms or under any
19 instruction?

20 A. Not really, because he was the
21 competent official. So he would have prepared to defend
22 the suit except for the intervention of the Minister of
23 Labour who summoned the whole Board -- I think he was
24 rightly irate and he said that the Board as a corporation
25 cannot be sued on this sort of thing and you must settle
26 the matter. In the car coming down from the office of
27 the Honourable the Minister of Labour to 90 Harbor Street
28 Dr. Steele and Mr. Cauley and I agreed that he, Mr.
29 Cauley, would negotiate the settlement with Mr. Campbell
30 and that the Board would pay half of the settlement. If

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1 my arithmetic speaking from memory is correct, having been
2 \$1,700.00, the amount owing would be some \$1,400.00. It
3 was settled by Mr. Cauley's negotiation for \$800.00,
4 half of which presumably was paid by Mr. Cauley and half
5 of it being \$400.00 plus \$50.00 cost was paid by the
6 Board, which means that instead of paying \$1,700.00 we
7 paid \$762.00 including costs.

8 Q. And Mr. Cauley paid some money from
9 his own pocket I believe.

10 A. I believe so, sir.

11 Q. But the point that was raised by
12 one of the Committee members seemed to be this: that
13 the Board apparently took a position about defending
14 the claim and there is just some question as to whether
15 or not the Board really was in the position to do that.
16 The evidence here might indicate that an error might
17 have been made by one of the Board officials in the
18 ordering of the photos, and one of the members rather
19 indicated maybe it was the Board's responsibility and
20 maybe Mr. Cauley shouldn't pay it.

21 Do you recall if there was any investigation
22 made by way of statements or affidavits or anything to
23 determine what did happen first before the Board took a
24 position?

25 A. But only as I simply said, sir,
26 that the Board as a trio talked to the people concerned
27 in the presence of this solicitor and it is possible
28 that the Board was in error, but I don't think so, sir,
29 and I think the fact that it worked out the way that it
30 did indicates that it wasn't an error.

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1 Q. The affidavits in that lawsuit have
2 been the subject of some evidence before us, sir. Do
3 you remember the reason why the Bancroft affidavit was
4 taken?

5 A. I don't remember at all except that
6 Mr. Lane must have considered that he needed it for some
7 purpose or other.

8 Q. Do you recall whether it was simply
9 taken on your instruction or the instruction of the Board?

10 A. No, I don't recall that. That is
11 certainly not my recollection. I try not to practice
12 law in my own interests.

13 Q. There is one matter I did want to
14 clear up for you, sir. There is one letter and I filed
15 it myself and I think it is dated February 12th, 1968.

16 A. Yes, sir.

17 MR. DONNELLY: I wonder if the Clerk
18 could find it for me, February 12th, 1968, and it was
19 said to have been written by you to I think the Minister
20 relative to the McGillivray report brief.

21 I wonder if you could just identify it
22 for me, sir?

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25 THE WITNESS: We have a copy.

26 MR. DONNELLY: Q. Is that in fact a
27 letter that was sent by you to the Minister, sir?

28 A. Yes, this is the letter and I would
29 have signed it but was prepared by me.

30 MR. DONNELLY: That Mr. Chairman, concludes

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1 my examination.

2 THE CHAIRMAN: You have concluded, counsel?

3 MR. DONNELLY: Yes.

4 MR. AUSTIN: Mr. Chairman, may I make a
5 point, before the questioning begins: you asked Mr. Legge
6 whether he was going to make any statement with respect
7 to allegations made. May I say this, that no member of
8 the Committee should take the fact that no such statement
9 was made as admitting in any way, shape or form any of
10 the allegations by Mr. Cauley or any of the statements
11 made in the Globe and Mail.

12 MR. DONNELLY: Mr. Chairman, for what
13 it's worth I think Mr. Austin's point is soundly taken,
14 with respect. Silence certainly doesn't make any
15 the allegations.

16 THE CHAIRMAN: Yes, I think the Committee
17 feels this way but we did want to accord Mr. Legge the
18 same privilege.

19 Mr. Miller, you might proceed.

20 MR. MILLER: Thank you. I would like to
21 keep my questions on specific subjects and I deal with
22 the appeal procedure first because it has been the topic
23 of a lot of discussion. This appeal procedure I believe
24 was started in 1965.

25 THE WITNESS: Yes.

26 MR. MILLER: Was it to some degree drafted
27 by you?

28 THE WITNESS: Oh, I think in all fairness
29 most of the ideas were based on my training and experience.

30 MR. MILLER: Had you been on the Canada

1 Pension Commission?

2 THE WITNESS: No, sir. I was an advocate
3 -- I was free legal advice to veterans and the district
4 citizenry in Toronto for the Department of Veteran's
5 Affairs.

6 MR. MILLER: Does the procedure now used
7 by the Board bear resemblance to that used by the
8 Canada Pension Commission?

9 THE WITNESS: In some ways, but they have
10 changed their system so it is not really.

11 MR. MILLER: Now we saw some evidence this
12 afternoon, a series of letters from members of the labour
13 organization registering strong complaints about the
14 appeal procedure. I believe you have these letters,
15 Mr. Good.

16 Did you have a lot of complaints from
17 labour organizations when you instituted this appeal
18 procedure?

19 THE WITNESS: We certainly had some
20 complaint. I would not have found a lot of them.

21 MR. MILLER: In other words, the majority
22 of the labour unions seemed to accept the change?

23 THE WITNESS: I kind of think the way
24 Mr. Hamilton described it was the acceptable approval
25 by most labour people that they were waiting to give it
26 a fair trial. That is my recollection.

27 MR. MILLER: How about today?

28 THE WITNESS: I think that today it is
29 very widely accepted, sir.

30 MR. MILLER: Fine.

1 Mr. Cauley of course has registered his
2 objection to this procedure and it would seem to have
3 been his main point of difference with the Board. Did
4 he continue to disagree with the change in the years
5 '65 to '69 openly?

6 THE WITNESS: Well, not to me, except on
7 the one major talk that we had which I described earlier,
8 Mr. Miller.

9 MR. MILLER: Now I will get on to the
10 portraits. The counsel has asked a number of the questions
11 that I would like to have asked likely, but I would like
12 to refer you to one that Mr. Cauley said he never used.
13 Mr. Lane said he never used the affidavit signed by
14 Miss Bancroft and I wondered why this was taken. It
15 would ^{not} have caused a woman so much pain if it was not
16 necessary.

17 Can you give us any idea?

18 THE WITNESS: I really can't, sir, because
19 it was in the hands of Mr. Lane. Whether he wanted
20 two affidavits or affidavits of merit or not I don't know.

21 MR. MILLER: Both Mr. Good and I were of
22 some opinion that either Miss Bancroft or Mr. Lane said
23 the instruction came from you to have this affidavit
24 taken.

25 THE WITNESS: That is certainly not my
26 recollection.

27 MR. MILLER: I am not sure, I assume if
28 we looked through the testimony you will find this out.

29 THE WITNESS: Perhaps I could be helpful
30 on that point. It seems foreign to me even at this date.

1 I can't imagine how to try to advise her in how to do
2 that particular thing.

3 MR. MILLER: Concerning yourself with the
4 expense of the pictures, Mr. Cauley explained you complained
5 directly to Mr. Rowntree about this issue.

6 THE WITNESS: Oh no, I didn't complain.
7 I certainly informed Mr. Rowntree that we were having a
8 problem in the Board with what I thought was a very large
9 bill. I invariably inform the Minister/^{when}involved in
10 matters like that.

11 MR. MILLER: The thing that perhaps is
12 strange to us is the apparent lack of knowledge you had
13 and the great knowledge everybody else seems to have had
14 about this issue. It seems to have been widely known
15 that there was a controversy about pictures. Miss Bancroft
16 kept a piece of cardboard for some years and other people
17 seem to have gone to great lengths to have their
18 information straight. I would/^{have}thought that you would
19 have recalled this.

20 THE WITNESS: But I do recall the whole
21 episode, but I don't recall the details because I didn't
22 do the work on them.

23 MR. MILLER: Did you hear the evidence
24 given by Miss Bancroft of Mr. Hollingworth yesterday
25 concerning this?

26 THE WITNESS: No, sir.

27 MR. MILLER: Well, in my opinion, I am
28 speaking as an individual, Mr. Hollingworth seemed to
29 indicate in his testimony that the error was his in
30 placing an order. At least this is the way I read it, and

1 I am curious to know why Mr. Cauley would have had to
2 pay part of the damages.

3 MR. AUSTIN: Mr. Chairman, may I interrupt
4 here? If I may say so that is an interpretation of the
5 evidence.

6 MR. DEANS: May I interrupt before you
7 do so. I understand that counsel has to address through -- ask
8 questions through the counsel of the Committee.

9 MR. AUSTIN: I am objecting and I am
10 stating the reason for objecting.

11 MR. DEANS: There is no room for objections.
12 There is no way you can object to this Committee.

13 MR. DONNELLY: May I, Mr. Chairman?

14 THE CHAIRMAN: Yes.

15 MR. DONNELLY: If it is any help and I
16 can only deal with my own recollection of the point, but
17 I rather think from my recollection Mr. Austin may be
18 right. I thought that Mr. Hollingworth three times
19 admitted that it was bad for him or some kind of slip up
20 for him to write the letter ordering the two -- the Board
21 pictures and the personal pictures in the same letter,
22 and I think he said that may have given rise to the
23 problem, but I think to backtrack a little bit Miss
24 Bancroft said she was sure she ordered the prints, and
25 she was sure she passed the order on for prints and we
26 were left with the impression that Hollingworth made the
27 thing. But I'm not sure Hollingworth ever admitted this
28 mistake.

29 MR. MILLER: Let me rephrase my question.
30 I think you are quite correct. I was left with the opinion

1 that Mr. Hollingworth had made an error, whether he
2 stated so or not. I am still concerned why, when an
3 error was made by an employee of the Board, another person
4 should be required to defend that action?

5 What do you say to that?

6 THE WITNESS: As I recall, there was no
7 defence of the action. It was settled.

8 MR. MILLER: Yes, but by him paying \$500.00
9 of the claim.

10 THE WITNESS: \$400.00.

11 MR. MILLER: His claim was \$500.00.

12 THE WITNESS: It was supposed to be half.

13 MR. MILLER: All right. Let's pass that.
14 But at the time that Mr. Cauley left the Board order was
15 prepared summarizing the terms under which he would leave
16 and I think it is Exhibit No. 47.

17 THE CHAIRMAN: May I for the information of
18 the Committee and counsel for the witness state that we
19 believe that counsel may object but then state his
20 objection with counsel for the Committee.

21 MR. AUSTIN: Thank you, Mr. Chairman.

22 MR. MILLER: In previous questions of
23 witnesses we haven't quite established where the
24 authority came from for the formulation of this Board
25 order of May the 8th, 1969.

26 THE WITNESS: The Board as it then was
27 constituted passed the order.

28 MR. MILLER: The reason we perhaps are in
29 doubt is that Mr. Cauley saw the Minister on the 5th and
30 wrote a letter of resignation on the 12th, but the Board

1 order was issued on the 8th. Then did you receive
2 instructions to prepare a Board order in the meantime?

3 THE WITNESS: Well we certainly knew about
4 the fait accompli of what is reported in here.

5 MR. MILLER: I am concerned because at
6 the top of Exhibit 47 it says, "Two copies to Mr.
7 MacDonald," and we have discussed at great length the
8 fact that the Minister appears not to have received a
9 copy and Mr. Cauley appears not to have received a
10 copy.

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1 MR. AUSTIN: Sorry, Mr. Chairman, I object.

2 MR. DONNELLY: Mr. Chairman, Mr. Austin
3 asked me point out it is his recollection that the Minister
4 did receive a copy of the order.

5 MR. GOOD: Several months later it says.

6 MR. MILLER: Well, again, that is not
7 really the point I am trying to make. I am just concerned
8 that on a matter as important as this that the copies
9 were not delivered promptly to the people involved. Do
10 you feel this was correct?

11 THE WITNESS: I feel, as I said before,
12 that it was my understanding that the Minister had a copy,
13 that it would have been sent to him, that he was dealing
14 with Mr. Cauley. I certainly at no time was dealing with
15 Mr. Cauley. If I had -- or if anybody had thought that
16 he didn't have a copy, I would have been happy to give it
17 to him.

18 MR. MILLER: The reason I say that is
19 the other copies clearly state to whom the copies were
20 given.

21 THE WITNESS: You understand, sir, that
22 the Board itself doesn't see to whom the copies go. We
23 sign one and that is a matter of record for the Board.

24 MR. MILLER: Surely it is an administrative
25 detail to find that people are informed.

26 THE WITNESS: That is our prime objective,
27 yes.

28 MR. MILLER: Mr. Bales referred to complaints
29 that he received about intermittent absence by Mr. Cauley
30 causing delay of adjudication meetings. Do you know if

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1 you were the source of these complaints to Mr. Bales?

2 THE WITNESS: No, I wasn't the source of those
3 complaints.

4 MR. MILLER: Can I get on to administration
5 now?

6 When you arrived at the Board in 1965, was
7 the staff in a great need of rejuvenation?

8 THE WITNESS: I don't know about rejuvenation.
9 I think the systems could be improved and they have been
10 improved and they are continually being improved.

11 MR. MILLER: There have been references in
12 the paper I believe, in the newspapers lately, about
13 disagreements with Mr. Decker. Do you basically agree
14 with the newspaper reports that there is now disagreement?

15 THE WITNESS: No, I don't basically agree
16 with that at all because I don't know what you are referring
17 to, sir.

18 MR. DONNELLY: Mr. Austin asked if my friend
19 is going to be asked to comment on a specific quotation
20 that it be given.

21 MR. MILLER: I haven't got the papers here,
22 I'm sorry.

23 MR. DONNELLY: I think he prefers it that
24 he be given the quotation before he is asked to comment
25 on it.

26 THE WITNESS: As to this disagreement in
27 the Board, I think that it all depends on how you describe
28 disagreement or discord or whatever it is you use. I would
29 say, for example, and you have heard it and you can judge
30 it yourself, it is apparent that Mr. Hamilton is a very

1 logical, very direct, very clever person who says precisely
2 what he thinks and the chips fall where they may. Now,
3 to my way of thinking this may form a much better Board
4 than if we were all mealy-mouthed people who never said
5 what we thought or what we believed or what we hoped for.
6 Now, when it comes to Mr. Decker, I can certainly remember
7 me disagreeing with Mr. Decker here and there; I can remember
8 Mr. Hamilton disagreeing with me about something and I can
9 remember Mr. Decker and Mr. Hamilton disagreeing. But I
10 say this about the Board's business, I think that the people
11 of the Board have different backgrounds and I think, really,
12 sir, that is why they have a corporation.

13 MR. MILLER: I think perhaps my concern was
14 this and it's not in the form of a question, it is this,
15 that we have heard from you, I believe, that you didn't
16 have open hostilities with Mr. Cauley.

17 THE WITNESS: Not at all.

18 MR. MILLER: And yet unilaterally there
19 seems to have been a great deal of resentment building up
20 in that gentleman and I thought perhaps a similar circum-
21 stance could have been created without you being aware
22 of it.

23 THE WITNESS: I would certainly hope not
24 and it would be my opinion that that would have been
25 impossible with Mr. Humphrey. I would be very aware of
26 it.

27 MR. MILLER: It was Mr. Decker I was
28 referring to.

29 THE WITNESS: Mr. Decker says what he thinks.

30 MR. MILLER: My last question is this: you

1 have shown on Exhibit 66 which is the sick leave and
2 vacation leave that you just filed with us for yourself
3 that you had some 123 days military leave since going to
4 the Board.

5 THE WITNESS: Seven years and a bit.

6 MR. MILLER: One hundred and twenty-three
7 days in this case.

8 THE WITNESS: May I just find my paper?

9 MR. MILLER: I am just adding it up. Is
10 this in fact charged against either your sick leave or
11 your vacation leave?

12 THE WITNESS: It is not charged against
13 either. The Board has a policy on military leave that was
14 extant when I was there and I think all government
15 departments have.

16 MR. MILLER: Thank you. That is my last
17 question, Mr. Chairman.

18 THE CHAIRMAN: Mr. Good?

19 MR. GOOD: Just one area I would like to
20 pursue, Mr. Legge, and it is rather delicate and I do it
21 with no malice to clear up a situation which exists in
22 the press. It is in the minds of many members of the
23 Legislature, I feel, and in the minds of the public and
24 it is the matter of your military connections. In 1938
25 and when you entered -- was your first attachment with
26 the military?

27 THE WITNESS: That was just after university,
28 sir.

29 MR. GOOD: When you left the Board,
30 you were lieutenant colonel, lieutenant commander, and

1 what is your area now of command?

2 THE WITNESS: I am a Militia Brigadier
3 General and I command the militia in Ontario which sounds
4 far grander than it is. I have a large regular four staff
5 who do the work. The reason they have a militia brigadier
6 general is because I believe I am 10% as expensive as a
7 regular force brigadier general.

8 MR. GOOD: With the rest of these questions
9 I will deal as one old soldier to the other. I feel by
10 reports in the newspaper they have linked at various times
11 over the past number of years your military connection
12 and this has been on the minds of many of us I know
13 with the testimony we have heard about dissensions within
14 the Board. Miss Bancroft credited Mr. Cauley with a
15 statement at one time, "I will show him who is boss,"
16 referring to you. Mr. Hamilton has mentioned you are away
17 from the Board too much for your own good and also the
18 good of the Board and this type of thing. You have
19 surrounded yourself -- we have read newspaper articles
20 where other men ---

21 THE WITNESS: Of course that may not be
22 right.

23 MR. GOOD: It may not be right but this is
24 the point in the minds of many people; it has a bearing.
25 I am wondering this, we are all, those of us who were in
26 the service, realize the necessity of discipline during
27 wartime within the army. My wife told me it took me
28 two years to become demilitarized after I was out of the
29 service before I was fit to live with and this sort of
30 thing because of army discipline and this sort of thing.

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1 Maybe I am even not now. But some of us at times have
2 been concerned and I have felt this myself, when I have
3 appeared with people where you visualize going in before
4 the colonel of the army and you march your workmen in
5 there and the formalizing of the old procedure there makes
6 one envisage a type of military hearing. Now this I think
7 is partly because of the association of yourself with the
8 military which has I think unduly and not properly been
9 built up by the press in the last number of years. Now
10 the question is this; do you feel that your continuation
11 in such a high capacity in military service to the country
12 in any way detracts from your abilities at the Board in
13 that it maybe makes you too conscious of precision
14 expected of other people. I notice here as you answered
15 you referred to many of us as "Yes, sir" and "No, sir"
16 and this sort of thing. Do you think that it in any way
17 has built up a bearing or a deportment among the Board
18 as a corporate body to you personally that is maybe not
19 advantageous?

20 THE WITNESS: No, I certainly don't think
21 that. I don't think there is anything in it. As I
22 matter of fact I find your comment, if I may say so,
23 very interesting because I have never heard the
24 adjudication described in any sense as militaristic, not
25 even by its worst enemies.

26 MR. GOOD: Well I find it difficult to
27 realize when I appear there that the officers appearing
28 at the table do not introduce themselves to me. They
29 call me by name, no one offers -- I know yourself and
30 Mr. Hamilton and Mr. Decker, I have talked to the appeal

24-7 1 tribunals and they may be different.

2 THE WITNESS: We can certainly have that
3 changed and I apologize if you don't know who they are.

4 MR. GOOD: I had gathered that this was
5 part of your policy to keep it impersonal.

6 THE WITNESS: No, it is the very antithesis
7 of being impersonal. It is said by some, you see, that
8 it is supposed to be too court-like, too legalistic but
9 it isn't at all because the Board, or whoever it is that
10 is deciding has the impossible duty of trying to find
11 the true merits and justice of that poor fellow's case.
12 There isn't any burden of proof on him to prove anything,
13 it is on the Board to find out. Now when the workman
14 is helped by you or Mr. Deans or Mr. Shulman, it is easy
15 for the Board because a great deal of inquiry has already
16 been made.

17 MR. GOOD: Have you not felt over the past
18 years that the press and the media have tried to build
19 up your military connections beyond the proper place of
20 yourself as Chairman of the Workmen's Compensation Board?

21 THE WITNESS: I have never been linked
22 until quite recently as a militarist and as a Compensation
23 person. My general complaint against the press is that
24 nobody wants to recognize the need or the merit of the
25 citizen soldier. I think they are some of the best kids
26 in the country and my complaint is that people aren't
27 interested in these kids who are in the reserves and,
28 don't forget, they are all teenagers. Our business has
29 been teenagers in the reserves. We are kind of a pumped
30 up cadet service really. No, I have never heard that

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1 before and I find it very interesting.

2 MR. GOOD: You have never felt that this
3 has had any detrimental effect on you as Chairman of
4 the Board?

5 THE WITNESS: Well no, I never have.

6 MR. GOOD: In the operations of the Board?

7 THE WITNESS: Never at all.

8 MR. GOOD: You feel you are able to
9 be a general on the Board and this does not preclude any
10 employee of the Board coming to you with a problem?

11 THE WITNESS: Not at all.

12 MR. GOOD: Or approaching you without any
13 fear of trepidation?

14 THE WITNESS: I think generally Hamilton
15 says he is afraid of me and he isn't afraid of me.

16 MR. GOOD: No one is afraid of you?

17 THE WITNESS: I think very few people
18 until the recent bout of prosperity from a publicity
19 point of view, nobody really knew that I was a reserve
20 any more than -- well, you knew perhaps but the general
21 population doesn't know that I am in the reserve. I
22 don't have anything to do with the reserves during my
23 working time or that sort of thing. It is like being,
24 you know, in church business. I am in the old men's
25 business, I am in lots of medical - legal - safety,
26 this type of thing. I don't think people know what you
27 are. They take you as what you are in that activity.

28 MR. GOOD: While the statement has been
29 made, I will ask you this just to assure myself on this.
30 You would not agree with the statement which I have heard

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1 in the last three days that the Workmen's Compensation
2 Board needs to be demilitarized?

3 THE WITNESS: Well I think it would be
4 an impossible task if you could demilitarize the unmilitary
5 because it isn't military.

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1 THE CHAIRMAN: Mr. Deans?

2 MR. DEANS: Mr. Chairman, first of all to
3 Mr. Austin, I am sorry I interrupted you but the reason
4 I did is because we set the procedures down and I objected
5 to them at the time thinking that it would be better if
6 lawyers were able to speak. I want, therefore, to have
7 the thing conducted the way it was set up in order that
8 we can determine whether this is the proper way rather
9 than to cut you off.

10 I want to deal with four matters, they
11 are rather broad but I would want to deal with the matter
12 of the photographs and the relationship between yourself,
13 Mr. Legge and Mr. Cauley over the years, the matter
14 alluded to by Mr. Miller, the tape recorded messages and
15 finally with your absences from the hearing.

16 When we got to the photograph incident I
17 asked Mr. Lane on page 260 of the Hansard of the evening
18 sit of April the 18th whether or not there was a meeting
19 of the Board at which a decision was made to continue
20 with the defense against the action by Mr. Gerald
21 Campbell and he wasn't too sure.

22 Can you recall whether or not there was
23 a Board meeting at which Mr. Lane was present to decide
24 whether or not the action against the Board and Mr. Cauley
25 by Mr. Campbell was to be defended?

26 THE WITNESS: I am pretty sure without
27 saying or looking at the file, Mr. Deans, that the Board's
28 position was that we weren't going to pay \$1,700 and
29 the instructions were first of all the pre heart attack
30 meeting with Mr. Cauley to have the thing settled we

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1 subsequently paid \$300 for what the Board thought was
2 its share and in the autumn I am pretty sure that Lane's
3 instructions were to, you know, defend but we never
4 intended it to stay at least I never intended to go to
5 court at all and this whole contingency was abruptly
6 ended with the summoning of the Board by the Minister
7 of Labour which you will go out and you will settle
8 it.

9 MR. DEANS: I'm interested that you weren't
10 intending to go to court, but were you informed by
11 Miss Bancroft -- were you present at the meeting at
12 which Miss Bancroft gave her version of what happened?

13 THE WITNESS: I was present at one meeting
14 when both Miss Bancroft and Mr. Cauley came to the
15 Board, the full Board, yes.

16 MR. DEANS: Were you recommended that she
17 was told by Mr. Cauley and she had a piece of cardboard
18 to prove it that he wanted prints and that if there was
19 an error in the transmittence of that particular order
20 from Mr. Cauley to Mr. Hollingworth that perhaps she
21 was responsible although she didn't believe so?

22 THE WITNESS: I think so, but I don't know
23 whether -- because you were putting it into my mind or
24 because it actually happened, but I think so.

25 MR. DEANS: Let me say that under oath Miss
26 Bancroft did say that was the case.

27 THE WITNESS: I would be prepared to believe
28 Miss Bancroft.

29 MR. DEANS: With that and with the evidence
30 of the letter sent by Mr. Hollingworth to Mr. Campbell

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1 in which he ordered the prints -- and that is the letter
2 of April 2nd, 1965, I believe Exhibit No. 52 -- if Miss
3 Bancroft made the statement to the Board and if the
4 letter that I am referring to was available to the Board
5 why then would the Board proceed with the action other
6 than to dispute the size of the bill?

7 THE WITNESS: The whole question, and you
8 put your finger on it really precisely, the whole problem
9 was that neither Dr. Steele or I could believe that the
10 Workmen's Compensation Board could conscientiously pay
11 \$1,700 for pictures for one man when pictures for two
12 men was of the order of \$326, and that exactly was the
13 problem.

14 MR. DEANS: Well I can understand that
15 problem, but I wonder in the taking of the affidavits,
16 the one Affidavit of Merit I understand now -- I didn't
17 understand the difference -- but after yesterday's
18 exercise I now understand the difference. But the
19 affidavit of Miss Bancroft leaves the appearance that
20 the Board was attempting to transfer the responsibility
21 for the pictures from the Board to Mr. Cauley; is that
22 true?

23 THE WITNESS: No. The Board was saying,
24 and I think it still says, that the Board was always
25 prepared to pay for the pictures that the Board instructed
26 to be taken.

27 MR. DEANS: Well we come down to ---

28 THE WITNESS: Namely that Mr. Cauley was
29 the agent in this matter, because when he said -- "I don't
30 like Edmund Soame's picture of me." and I never forecast

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1 anything like this, but I said, "Jack, no one ever has
2 to have an awful picture; go and get one you like," and
3 he did go as far as I'm concerned.

4 MR. DEANS: But he did not go and Mr.
5 Hollingworth made the arrangement with Mr. Campbell
6 although Mr. Campbell was the photographer of Mr. Cauley's
7 choice Mr. Hollingworth in fact agreed that he made the
8 connection -- he attempted to find Mr. Campbell at
9 Cooper and Ashley or Ashley and Cooper and he had left
10 there and set up his own business and he upon covering
11 it or discovering it placed the order with Mr. Campbell
12 for the pictures of Mr. Cauley. Now there is no evidence
13 that we have seen that Mr. Cauley ever ordered any
14 pictures. I don't, and I say this to you, I don't doubt
15 for a minute that Mr. Cauley probably did say that he
16 wanted extra pictures, I don't know that. No, I don't
17 know that, there is no evidence to show it. I am pre-
18 pared to accept -- there is no evidence to show that Mr.
19 Cauley ordered it.

20 THE CHAIRMAN: Yes, there is.

21 MR. DEANS: Where is the evidence?

22 MR. DONNELLY: With respect, there is the
23 sworn evidence of the witness Bancroft.

24 MR. DEANS: I am talking about no document-
25 ary evidence.

26 MR. DONNELLY: Perhaps you might say that.
27 There is the sworn evidence of the witness Bancroft
28 supported by her handwritten, cardboard memo and supported
29 by Mr. Hollingworth's letter which is for the Board's
30 use and for Mr. Cauley's use. That is the evidence I

recall.

MR. DEANS: I suggest to you that the letter from Mr. Campbell is a letter from an official of the Board or from Mr. Hollingworth is a letter from an official of the Board to Mr. Campbell, it's not a letter from Mr. Cauley nor is it an order from Mr. Cauley, it is an order from an official of the Board.

THE WITNESS: I was very puzzled by the letter. You know, it says in the lead sentence,

"Enclosed are the prints of Mr.

Cauley for his use and my own use."

MR. DEANS: What that meant I don't know either.

THE WITNESS: Well, to the Board it meant that there was an inordinate bill that the Board could not as a business organization pay and that was our position.

MR. DEANS: Now what I am asking really is this, sir. With this as it stood at that time and with Miss Bancroft saying that in fact she did not order what was delivered, and with her saying that Mr. Cauley did not order what was delivered, how then -- why did the Board then find it necessary to take an affidavit which would have effectively transferred or attempted to transfer the responsibility from the Board to Mr. Cauley?

THE WITNESS: The Board's position always was that there were two orders, one for the Board and one for Mr. Cauley.

MR. DEANS: Was it a practice of the Board

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1 to order things for personal use?

2 THE WITNESS: Certainly not my practice.

3 I had never heard of it before.

4 MR. DEANS: It had never been done before?

5 THE WITNESS: I don't know. I had never
6 done it before.

7 MR. DEANS: Not to your knowledge?

8 THE WITNESS: No.

9 MR. DEANS: Let me ask you, sir, you said
10 your relationship with Mr. Cauley was acceptable. You
11 said you had no reason to think that it was other than
12 friendly?

13 THE WITNESS: I would like to tell you,
14 you know, really that this business in the spring of
15 1965, Mr. Cauley seemed to understand the problem very
16 well. There was no animosity in the boardroom when Dr.
17 Steele and Cauley were discussing it. Somebody mentioned,
18 "This bill is so inordinate, so outrageous that it is
19 like the hundred dollar coal scuttle that brought down
20 the farmer's government."

21 MR. SINGER: Are you making a prediction?

22 THE CHAIRMAN: You hope.

23 THE WITNESS: I am simply recalling the
24 conversation to the best of my ability which is difficult
25 at this point. But I do remember that, the kind of
26 discussion and to the best of my recollection Mr. Cauley
27 was quite happy to at least go away and think about getting
28 that bill reduced. And I have forgotten now when the
29 bill was paid, but I believe the Board paid three hundred
30 and some dollars in July which Hollingworth said was his

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1 share of it. The rest was the \$1,400 which was
2 negotiated and I couldn't agree with you more. It is
3 a very difficult thing, it is a dreadful position for a
4 brand new chairman to be in to be confronted with this
5 kind of bill with -- my only reaction to it was one of
6 fear. I couldn't believe it, that there could be a bill
7 for \$1,700 when the bill for Steele and Legge was \$326.

8 MR. DEANS: I agree.

9 THE WITNESS: That was the whole problem.

10 MR. DEANS: I agree. I think you were
11 taken, but that doesn't matter.

12 THE WITNESS: We weren't as badly taken
13 because it was subsequently ---

14 MR. DEANS: What worries me really is what
15 kind of an atmosphere prevailed in the Board in the
16 fall when Miss Bancroft said that she didn't order those
17 pictures. What she said, though, that if it was the
18 Board's opinion that there was a mistake and it was her
19 mistake she was prepared to pay for it and yet the Board
20 insisted -- I can only assume the Board insisted or
21 the Board ordered Mr. Lane and he acted on his own
22 initiative, but certainly if there was a meeting and
23 he was told to proceed and he proceeded in such a way
24 to transfer the blame from the Board to Cauley.

25 THE WITNESS: Well that was always the
26 Board's ---

27 MR. DEANS: You keep on wondering what the
28 atmosphere of the Board was when this occurred.

29 THE WITNESS: The atmosphere was troubled
30 obviously, but I don't think that at that stage that it

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1 was quite resolved in the Minister's office.

2 MR. DEANS: It certainly was.

3 It was said, and I am going to ask him and
4 I suspect I know the answer, it was said by Mr. Cauley
5 that Miss Bancroft was told that she must sign the
6 affidavit or she would suffer some consequences, I don't
7 know what, he wasn't there and neither was I.

8 THE WITNESS: Neither was I, sir.

9 MR. DEANS: You weren't there either?

10 THE WITNESS: No.

11 MR. DEANS: I want to ask you about some
12 entirely different matter for a moment and I want to refer
13 you to the Globe and Mail story of April the 7th, Friday,
14 April the 7th and it is dealing with statements attributed
15 to Mr. Decker.

16 I will read it and then give you the copy.
17 It says here that, "He set out to introduce himself to
18 the executive individually."

19 And this is after he came to the Board. "He wanted to
20 know them and he wanted them to know
21 him.

22 It was shortly after the inter-
23 views started that executives were
24 ordered to submit detailed confidential
25 memorandums on their meetings.

26 Mr. Decker soon learned of the
27 distrust and outright hatred that
28 existed in some quarters.

29 In June, just four months after
30 his appointment, Mr. Decker decided to

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1 see Labour Minister Dalton Bales to
2 tell him something had to be done and
3 that the action should be initiated
4 from his office.

5 Mr. Decker received a cordial
6 welcome from Mr. Bales but was told
7 for the first time of an agreement
8 between Mr. Bales and Mr. Legge.

9 The only WCB officials who could
10 carry on direct communications with
11 the Minister were Mr. Legge himself
12 or Mr. MacDonald, the executive man-
13 ager of the Board.

14 Although Mr. Decker and Douglas
15 Hamilton, appointed a month after
16 Mr. Decker, were both Board members,
17 they could not go directly to the
18 Labour Minister with their problems.

19 Mr. Decker believed Mr. Legge's
20 attitude was the root cause of the
21 trouble. He could do nothing about
22 it."

23 What could Mr. Decker have meant by that last statement
24 assuming he made it, or if he made it?

25 I will put it another way, if he made it.

26 THE WITNESS: I can only deal with what
27 I know. It is a policy that I ardently support and I
28 think Mr. Hamilton will verify, that I think every
29 commissioner, each one of the three commissioners, must
30 have access to the Minister of Labour if he wants access.

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1 and I have never heard of the four ministers of labour
2 that I have been associated with who declined that point
3 of view. I can further say that it would be impossible
4 for me, and it isn't the situation, that each commissioner,
5 each of the three of us has access to each principal
6 officer or anybody else on the staff if they like, and
7 indeed, you know, they have to have it or they wouldn't
8 know what is going on. I know nothing about secret
9 memoranda or whatever.

10 MR. DEANS: Are you familiar with the
11 allegation of tape recorded messages in the offices of
12 the Board in the summer of 1970?

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1 THE WITNESS: I read what I read in the
2 Globe and Mail. I am not familiar, no.

3 MR. DEANS: Did the Board have a meeting
4 to discuss this matter with Mr. Draper.

5 THE WITNESS: Discuss what?

6 MR. DEANS: Has the Board not since April
7 7th discussed the matters in the Globe and Mail on April
8 7th about his article -- let me read it:

9 "Some of the recorders were installed under
10 the supervision of William Draper, the
11 Workmen's Compensation Board's \$25,000.00
12 a year director of safety education."
13 Has the Board met to discuss this with Mr. Draper?

14 THE WITNESS: Not that I am aware of.

15 MR. DEANS: Has the Board met with the
16 Minister of Labour to discuss this with Mr. Draper or
17 with the Minister of Labour?

18 THE WITNESS: Not that I know of.

19 MR. DEANS: Was this matter not discussed
20 with the Minister of Labour and the Board on the morning
21 of Monday, April 7th?

22 THE WITNESS: No, sir.

23 MR. DEANS: Were you so confident that it
24 never occurred that it didn't seem important enough to
25 you to discuss?

26 THE WITNESS: I would like ---

27 MR. DEANS: I will send it to you. I am
28 sorry.

29 I am sorry it is not all there. The part
30 that I wanted isn't. I will wait while you read it.

26/2

1 THE WITNESS: You mean about MacDonald,
2 Draper and the Board checked tape recorders concealed.
3 I know many people have dictating machines, and I believe
4 there were several tape recorders in the Board. I know
5 of no concealed tape recorders and I know of no improper
6 use.

7 MR. DEANS: Is it true that the Board
8 tape recorded the messages of certain members of the
9 Legislature whom they considered to be hostile?

10 THE WITNESS: No member that I have ever
11 heard of.

12 MR. DEANS: Have you ever taken the time
13 since that story to check out to see whether or not it
14 was true or false?

15 THE WITNESS: Oh, it is being checked out,
16 sir. The Board is considering the Speaker's letter
17 about it.

18 MR. DEANS: There was a Board meeting then
19 to discuss it?

20 THE WITNESS: No. I am sorry, I didn't say
21 it well I guess. I think it was yesterday I received a
22 letter from the Speaker, the Honourable Alan Reuter
23 and it is being investigated and it will be formally
24 considered by the Board next week.

25 MR. DEANS: He doesn't write very quickly,
26 does he?

27 It has taken him some time to get around
28 to writing you, we raised it April 7th. You are saying,
29 or are you saying that there was never an order issued,
30 telephone calls from Morton Shulman recorded?

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1 THE WITNESS: Absolutely, not that I
2 recorded, certainly not by me.

3 MR. DEANS: By anybody on the Board?

4 THE WITNESS: I never heard of it and I
5 know nothing of it whatsoever. I would be shocked if it
6 were so.

7 MR. DEANS: I would be upset.

8 I want to pursue with you a little further
9 the matter of the honourarium paid to Dr. Steele. It says
10 on the order of the Board of September 27th, 1968 a minute
11 page 3596, number 1, the Board further directs -- second
12 paragraph, "The Board further directs that Dr. E. C.
13 Steele be paid an honourarium of \$9,500.00 for consulting
14 services in the area of professional relationships for
15 the period of one year after retirement." I want first of
16 all to know from you, sir, under what authority the Board
17 would issue such an order.

18 THE WITNESS: In what respect?

19 MR. DEANS: What right has the Board to
20 issue an order for the payment of \$9,500.00 for consulting
21 services that are not spelled out?

22 THE WITNESS: I think that the Board in
23 its capacity as a corporate body can retain consultancy.

24 MR. DEANS: What then was the consultancy
25 that Dr. Steele was going to offer to the Board?

26 THE WITNESS: There were several subjects
27 referred to him. I am being given a paper for the first
28 time, if I can just look at it.

29 MR. DEANS: All right. I will wait until
30 you read it. It gives me a chance to look at my notes.

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1 THE WITNESS: One of the things he was
2 invited to do was to help with the preparation and take
3 part in the International Seminar in March of 1969.

4 MR. DEANS: I am sorry, I didn't catch
5 the beginning of that.

6 THE WITNESS: According to the information
7 to that, it's some time ago, but some of the matters
8 referred to Dr. Steele, the first that is on this list
9 which I believe to be accurate was that he was asked to
10 participate in the International Seminar in Toronto from
11 the 2nd to the 6th of March, 1969. He was also asked
12 to contribute his ideas for improving the format of the
13 annual convention which is a very important matter.
14 There were two annual conventions that the Board
15 professionally engages in. The one is the convention
16 of the Workmen's Compensation Boards of Canada and the
17 other is the international one and it is all technical
18 subjects, such things as the assessment of disability,
19 vocational rehabilitation, the evaluation, this sort
20 of thing. Dr. Steele was by way of being an international
21 expert on permanent disability ratings. He was asked to
22 develop papers on a procedure for maintaining close
23 relationships in the medical profession because you
24 understand that with medical control that there can be
25 a problem in the patient-doctor relationship, the
26 medical control coming from the doctors of the Workmen's
27 Compensation Board. He was asked to do something about
28 the very vexed problem of privilege of medical documents
29 about the control of treatment and the relationship with
30 other public bodies.

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1 MR. DEANS: Do you have the result of his
2 works?

3 THE WITNESS: No, I don't.

4 MR. DEANS: Are they available to the
5 Committee?

6 THE WITNESS: I think that that -- when
7 I spoke earlier in answer to counsel about this problem --
8 I think that there were discussions -- I know that he
9 took part in the Seminar; I know that he wrote one or
10 two letters. But if I am asked I would have to say that
11 it wasn't enough professional detail to be really useful.
12 I know that Mr. Poole also had discussions with him.

13 MR. DEANS: Was Dr. Steele told?

14 THE WITNESS: Not in an unfriendly way.

15 MR. DEANS: Nothing is ever done in an
16 unfriendly way.

17 THE WITNESS: Oh yes it is.

18 MR. DEANS: If you were dissatisfied -- if
19 a person is paid \$9,500.00 which is quite a majority of
20 the people in the Province of Ontario a good year's
21 salary.

22 THE WITNESS: I agree.

23 MR. DEANS: One might expect to get something
24 in return for it.

25 THE WITNESS: I would have thought so.

26 MR. DEANS: If the Board were as generous --

27 THE WITNESS: I agree with you, sir.

28 MR. DEANS: I am saying if the Board was
29 that generous.

30 What do you intend to do about this?

1 THE WITNESS: Nothing, because I can't.

2 MR. DEANS: It is just money wasted, is it?

3 THE WITNESS: I wouldn't say -- I am not
4 treating it flippantly. It is a very vexed subject,
5 the question of whether you get value for money in
6 research projects or consultancy and so on. We have
7 had similar trouble for example with a very involved
8 project on caisson's disease. Basically we get tremendous
9 value for money in consultancies and research products
10 but there are some that go awry.

11 MR. DEANS: I have got to tell you and I
12 have heard of two consultancies today, one with Dr. Steele
13 where little value was received for the money spent, and
14 one in which a management consultant inquired of how
15 much you were worth from members of the Board, and then
16 proceeded to write a report. I wonder how well these
17 consultancies are done?

18 THE WITNESS: You understand, sir, that
19 the Hickling-Johnston report is the firm that does the
20 senior levels of Government. The Board is only
21 obliquely concerned in this. The Board does not have
22 anything to do with its own salaries.

23 MR. DEANS: That is interesting, by the
24 way. Now that you mention the Board and its own
25 salaries, how was it that the Board ordered -- and by
26 Board order, Hickling and Johnston were hired and by
27 Board payment Hickling and Johnston were paid?

28 THE WITNESS: That is correct.

29 MR. DEANS: And yet the Board never did
30 receive a report?

1 THE WITNESS: Yes, and yet I don't really
2 value that too perplexing because the Board -- it would
3 be useless to give the Board a report as to the merits
4 or demerits of what they are paid because Mr. Hamilton
5 Mr. Decker and I or any of our predecessors can do nothing
6 about their salary.

7 MR. DEANS: Yes, that is true, but why
8 would the Board initiate a study into their own salaries.
9 Surely it would be the function of the Treasury Board
10 to initiate studies.

11 THE WITNESS: Oh yes, and so it is. The
12 instruction for this is very precisely given by the
13 Minister of Labour who simply says the whole Government
14 of the upper level or whatever level is being as I said
15 as to what professional and management people get paid.
16 Hickling-Johnston are doing it for the Government. It
17 is desirable as much as possible independent crown
18 corporations be in line with the general governmental
19 policy with these matters and Hickling and Johnston are
20 doing it. I think it would be advisable if the Board
21 would do it too. So the Board considers it and does it.

22 MR. DEANS: Mr. Legge, that isn't just
23 quite the way I recall the Minister of Labour telling
24 it -- or who told it?

25 MR. WOOD: Marmash.

26 MR. DEANS: Marmash. No, Mr. Bales.

27 It seems to me Mr. Bales was asked by the
28 Board from my recollection of what he said.

29 THE WITNESS: I am sorry, sir.

30 MR. DEANS: Mr. Bales indicated that the

1 Board asked him ---

2 MR. DONNELLY: With greatest respect I
3 don't think that is right. I don't think I brought
4 up myself, and the written statement of Mr. Bales that
5 he filed, I think he does say, "I was asked about it,"
6 but I don't think he says he was asked by the Board.

7 MR. DEANS: The Board inquired of him
8 who the Board should hire. He suggested Hickling and
9 Johnston.

10 MR. DONNELLY: That is in his statement.

11 MR. DEANS: I see, he was asked, he didn't
12 say by the Board.

13 MR. DONNELLY: I think that is right, sir.

14 MR. DEANS: I think I will ask him on
15 this other point.

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1 THE WITNESS: Mr. MacDonald would have
2 the policy statement. There is no particular policy for
3 Board members directly.

4 MR. DEANS: There is no policy for Board
5 members?

6 THE WITNESS: No, I didn't say that. There
7 is no special policy for Board members because the Board
8 can't appoint or dismiss a colleague they didn't like.
9 Mr. Hamilton and I could not write a Board order tonight
10 dismissing Mr. Decker.

11 MR. DEANS: But you wrote a Board order
12 dismissing Mr. Cauley almost, didn't you?

13 THE WITNESS: Never.

14 MR. DEANS: By the way, I want to ask about
15 that. Mr. Cauley's Board order was on the 8th of May.
16 Mr. Cauley's resignation wasn't until the 12th.

17 THE WITNESS: I believe so.

18 MR. DEANS: Pardon?

19 THE WITNESS: Yes, I believe that is right.

20 MR. DEANS: It strikes me as odd that the
21 order would be passed before the resignation was written.

22 Let me ask you about your absences from
23 the Board -- not absences from the Board, I reject -- but
24 the numbers of times that you were not present at Board
25 hearings. You mentioned in 1969 that you were busy?

26 THE WITNESS: Well, I am busy all the time.

27 MR. DEANS: You mentioned in 1969 you were
28 unusually busy, that you were in New Zealand and Australia
29 for a month. How long were you in Ireland?

30 THE WITNESS: I think a week.

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1 MR. DEANS: A week. And you attended, I
2 believe, the World something or other of Medical Law
3 in Washington?

4 THE WITNESS: No, that was the next year,
5 sir.

6 MR. DEANS: That was the next year. Was
7 that the extent of the '69 other than the arrangements
8 of the international seminar in Toronto?

9 THE WITNESS: Those were the three sort
10 of examples that I have cited for you. But the absence
11 from the adjudicative hearings in 1969 were only in part
12 occasioned by those activities but they were very heavily
13 active because professional papers had to be written and
14 there were, I am going to suggest, seven or eight papers
15 for the Australia and the New Zealand thing as well as
16 the two for Ireland and the whole business of the seminar
17 here.

18 MR. DEANS: It strikes me that, you know,
19 regardless of what one does outside of the Board the
20 primary responsibility would be -- I don't mean outside
21 of the matters that might relate to the Board, but outside
22 of the actual hearing of claims that the primary responsi-
23 bility of all of the Board members is to take care of
24 these hearings of injuries.

25 THE WITNESS: But these hearings -- I couldn't
26 agree more -- I agree with you, that is absolutely right --
27 and these hearings were perfectly dealt with. The Board
28 sat in panels of two until recently, and if you will look
29 at the composition of the people in 1969 every single one
30 of Messrs. Cauley, Johnston, Cross and Poole, their whole

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1 life has been one of adjudication. The management of the
2 Board, the functional management of the Board which had
3 to be inaugurated was not completed in 1969, it was still
4 going on. As a matter of deliberate choice, since these
5 were temporary commissioners, they did the adjudication
6 and I did the other work and it was a very heavy year.
7 And to suggest that the 46 hearings that I attended was
8 that I was not working is just not -- it is wrong.

9 MR. DEANS: I'm not suggesting that, but I
10 am going to ask you two or three things. If 1969 were
11 different from every other year one might reasonably say
12 that that is something that comes up from time to time.
13 I agree it was markedly different from most years, but
14 1967 you sat in on 90 of 260 hearings. In 1968 you sat
15 in on 103 or 322.

16 THE WITNESS: This was to do other work.
17 There is no conflict, and I would most respectfully try
18 to show this, there is not a conflict between the manage-
19 ment of the Board and the adjudicative process. The
20 adjudication is one of many functions. There is the
21 function of the medical management, of the rehabilitation,
22 of the finance, of the safety of adjudication, of personnel,
23 all of these things.

24 q MR. DEANS: Now if one could recognize the
25 changeover was taking place in '69 one could recognize the
26 argument there was the responsibility because of the need
27 to orient it, because of council, to be involved into the
28 day and day operation outside of the hearings, but the
29 pattern didn't change much. 1969 was the worst but 1970,
30 129 of 245, that wasn't much better than 1969. 1971,

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1 109 of 211, that wasn't much better than 1968.

2 THE WITNESS: I think, you know, there
3 is a big difference between 20% and 50%.

4 MR. DEANS: Okay.

5 THE WITNESS: I would think really that
6 a chairman of the Board the way it is presently con-
7 stituted would be very fortunate if he got to 50%
8 of the adjudication in the old system and in some
9 light years I did. I think in the new system where we
10 have three commissioners and the Act was changed in '68
11 you know, to account for some of these problems so
12 there could be a pro tempore commissioner to help out
13 the work of adjudication hearings. I think now the
14 chairman could get the 60 or 75% of the adjudication
15 hearings. Because the functional management as Mr.
16 Hamilton suggested to you was completed last year in
17 its organization form when the last of the principal
18 officers, officers who are the equivalent of a vice-
19 president in industry was recruited from the Federal
20 Service to be the director of personnel and that com-
21 pleted the organizational vend.

22 MR. DEANS: So what you are saying is
23 that everything is changed now you will be there more
24 often?

25 THE WITNESS: No, I am there all the time.

26 MR. DEANS: But you will be there at the
27 hearings more often?

28 THE WITNESS: I think that I can get
29 really within some kind of luck to between 60 and 75%
30 of the hearings.

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1 MR. DEANS: We can expect in future the
2 years when we have a record of the workers seated there
3 on a regular basis?

4 THE WITNESS: I would hope, you know, that
5 you would be interested in knowing what else the Board
6 does.

7 MR. DEANS: I am going to ask you, I am
8 going to ask you now. I was just asking since you said
9 you would likely be there 60 or 75% of the time.

10 THE WITNESS: I will try to be.

11 MR. DEANS: Can you then tell me what it
12 is that the chairman of the Board does that is appreciably
13 different in workload than the work done by the other
14 members? Can you ennumerate for me the jobs that you
15 actually do in the day to day administration of the Board
16 that requires you to be out of the hearings that is
17 different from any of the other members?

18 THE WITNESS: There is the international
19 work of the Board.

20 MR. DEANS: Could you tell me how long that
21 would take on a day to day basis?

22 THE WITNESS: No, I couldn't, but I can
23 have it calculated. There is, for example, correspondence
24 and telephone calls last year to do with the Canadian
25 Conference being here; this year there is the same
26 kind of work on a larger scale with the international
27 conference being here.

28 MR. DEANS: How long would that take you
29 on a time basis?

30 THE WITNESS: I couldn't say, but it is an

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1 ongoing thing.

2 MR. DEANS: How many calls are you talking
3 about?

4 THE WITNESS: I couldn't tell you but
5 considerable.

6 MR. DEANS: It requires you to personally
7 make each call?

8 THE WITNESS: No, I don't do it all. No,
9 I don't want to give that view at all, but I have the
10 responsibility for it as the international president
11 and I have to go to -- it is a very bad year, this is a
12 very bad year because there are executive meetings, there
13 are regional meetings.

14 MR. DEANS: How many are there of those in a
15 year?

16 THE WITNESS: Well I think there are four
17 in the United States that are equivalent to the Canadian
18 Conference at which I have to give a paper and that sort
19 of thing. But I think that that is giving really a false
20 impression of the activity too. I think you will have
21 to put on the scales if you want to understand what my
22 work is, has been and is, that rightly or wrongly the
23 problems that confronted me required that I act as the
24 chief executive officer of the Board and four consecutive
25 ministers have approved of that. This entails a great
26 deal of work with the general manager of the Board, with
27 the principal officers of the Board, with my colleagues,
28 but now that it is in final form after all these years,
29 properly staffed, properly organized, it should be much
30 less and I think that eventually the professional manage-

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1 ment of the Board will be such that Legges, Deckers and
2 Hamiltons of this world will talk to the principal
3 officers and I will marginally have more to do with
4 the executive manager because of getting the agendas
5 ready for the formal Board's consideration, this sort of
6 a thing. I will probably have marginally more to do
7 with the Minister; this no way precluded the Minister
8 from dealing with the whole Board or with individual
9 members of the Board. But it would be dishonest of me
10 to suggest to you that the chairman of the Board cannot
11 be a chief executive officer of the Board as it is
12 presently operated.

13 MR. DEANS: Well there are two ways to
14 look at it; you either look at it that the outside
15 interest -- and I say outside meaning again just outside
16 the compounds of the operation of this particular Board;
17 right? I'm not talking about whether it be military
18 or anything else.

19 THE WITNESS: The military has nothing to
20 do with it.

21 MR. DEANS: I'm not trying to draw that,
22 I'm talking about such things as your international work
23 and the presidency or things that you are involved in.
24 There are either two things: Either the job -- if all
25 of those things are necessary ---

26 THE WITNESS: Oh, they are.

27 MR. DEANS: If this is so then the job
28 requires you to be able to be available to do those kind
29 of things and we have four people on the Board to do the
30 hearings and you are free to do all of that work, or on

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1 the other hand, we decide -- you decide as a board that
2 all of those things are not necessary and we need three
3 people on the Board and you are available to be at the
4 hearings. But obviously from what you say it will be
5 impossible from this day forward for you to be available
6 to hear all of the hearings.

7 THE WITNESS: Nobody could hear all of the
8 hearings. For example ---

9 MR. DEANS: Say 80%.

10 THE WITNESS: For example, Mr. Deans, this
11 paper here which I wrote with a great deal of thought from
12 the principal people in the Board which runs from some
13 115 pages was presented by me on behalf of the Board using
14 the Ontario system as the example as representative of
15 the Canadian system of Workmen's Compensation which was
16 given to President Nixon's Commission on Compensation in
17 Washington, and there are hundreds of hours of work in
18 this.

19 MR. DEANS: Surely you don't do all the
20 research yourself?

21 THE WITNESS: Not at all.

22 THE WITNESS: Surely you dictate as we all
23 do what it is you are looking for, you have people working
24 for you at the Board who are able to put their finger on
25 what it is you are looking for?

26 THE WITNESS: I have tremendous assistance,
27 I agree with you, but I put it in final form. I have
28 to deal with all the people doing the work and I don't
29 complain about that but, for example, the Minister was
30 delighted that the Ontario system was recognized in this

1 way and there were very flattering letters from the
2 Director of Research for this Commission about the
3 work that went into this. And I think it isn't all a
4 one way street. The Ontario Board isn't giving things
5 to people, but we learn a lot. There are 5,000 visitors
6 a year that come to the Workmen's Compensation Board.

7 THE CHAIRMAN: I have to interject at
8 this point. We are about to adjourn and I thought
9 perhaps counsel might want to outline to the Committee
10 and others something about our structure or format for
11 next week.

1 MR. DONNELLY: Mr. Chairman, do I under-
2 stand we adjourn now until Tuesday morning at 10:00 o'clock
3 and sit Tuesday morning, afternoon, Tuesday evening,
4 and follow Wednesday morning, Wednesday afternoon but
5 not Wednesday evening, and then we sit on Thursday and
6 Friday.

7 THE CHAIRMAN: We don't sit on Friday.
8 There is some clarification with regard to next Thursday.
9 There seems to be a problem conflicting with other
10 committees but we will be speaking to those people that
11 will be -- that do make the decisions, trying to impress
12 on them that this Committee should take preference in
13 view of the fact that estimates can be heard at any time
14 between now and June 30th.

15 MR. DONNELLY: As far as the witnesses and
16 sequence, Mr. Chairman, I only feel free to say this. I
17 propose dealing with the Board now that we have finally
18 gotten here and I would certainly be available to the
19 Committee as to their views or thoughts but I have no
20 firm conceptions to exactness so we will do this or that,
21 but I would like your advice and opinion.

22 Thank you.

23 MR. ALLAN: Mr. Chairman, could I make a
24 request?

25 THE CHAIRMAN: Yes, certainly.

26 MR. ALLAN: I am very anxious to learn
27 about the policy of the Board with respect to separation,
28 with respect of the settlements for sick credits, holiday
29 credits and the mechanics of those separations and I
30 am wondering -- probably it would be easier for you if

1 you had your personnel officer or Mr. Legge or someone
2 whose work, that is, to come and outline -- I think we might
3 save some time and this might be a basis for some reasonable
4 discussion.

5 MR. DONNELLY: Thank you very much, sir.
6 I appreciate that.

7 MR. LEWIS: Mr. Chairman, I presume that
8 at 10:00 o'clock on Tuesday morning Mr. Legge will
9 return and this discussion can continue.

10 MR. DONNELLY: I understand he is not
11 discharged, is he, sir?

12 THE CHAIRMAN: No.

13 MR. DONNELLY: I don't think there is any
14 thought of that, sir.

15 THE CHAIRMAN: We are adjourned until
16 10:00 o'clock Tuesday morning.

17
18 --- Upon adjourning at 10:20 p.m.

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21 CERTIFIED CORRECT:

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STANDING COMMITTEE ON RESOURCES DEVELOPMENT

(WORKMEN'S COMPENSATION BOARD)

Tuesday April 25, 1972

Morning sitting

1 --- Upon commencing at 10:20 a.m.

2 THE CHAIRMAN: I call this meeting to
3 order, and I think more or less we are going to carry
4 on from where we left off Thursday night. Perhaps
5 before we begin, counsel, did you have something you
6 wanted to say to the Committee at this time?

7 MR. DONNELLY: There is, Mr. Chairman.
8 I would like to thank you and I would like to thank
9 members of this Committee and also members of the House
10 for the obvious courtesies and cooperation that have
11 been extended to me. To date the proceedings have
12 moved quickly and in an orderly manner, and much of
13 the ground has been covered. But I am now going to
14 ask you to extend one further courtesy to me and up to
15 this date I have tried to serve you as unobtrusively
16 and objectively as possible, but the time may now have
17 come where we should re-examine our direction and I am
18 going to ask your leave to make a suggestion to you.
19 And in this respect bear in mind that the decision
20 making process remains with the Committee, and my
21 opinions are not expressed to influence or bind your
22 judgment in any way but solely for the purpose of
23 explaining and understanding my suggestion. Now there
24 are two matters that I wish to bring before you; first
25 of all, it seems that the sensationalism arising from
26 the Cauley charges have been substantially diffused.
27 The evidence given by him was inconsistent in many
28 aspects, it was contradicted by credible witnesses and
29 by documents. I could list 30 or more differences if
30 I were asked to comment on them. I don't propose doing

1 | that unless I am asked. But subject to your instruction
2 | I don't propose heaping rebuttal upon rebuttal, and I
3 | may not proceed with such technical proofs as I would
4 | in a courtroom, that is, to call Mr. Kerr to prove his
5 | handwritten memo as filed, or to call the Secretary
6 | or Assistant Secretary to prove certain of the other
7 | documents I have filed. I don't mean to deprive you of
8 | the right to pursue this matter further on your own;
9 | it may be that you wish to cross examine Mr. MacDonald
10 | about the affidavit when his turn comes. But the
11 | point is that for the moment I propose turning away
12 | from that rather continuing these rebuttals.

13 | The second thing is that since we
14 | convened on Thursday I understand there have been two
15 | further newspaper articles appear and they may in fact
16 | deal with serious matters, matters that this Committee
17 | should delve into. They may deal with personal or
18 | political bias or discrimination, and the question I
19 | think lies in this area: the Committee must make up
20 | its mind whether it wants to play cat and mouse with
21 | the Board and to catch it offguard or to embarrass it
22 | on the one hand or, on the other hand, is it the
23 | Committee's purpose to inquire into the legitimate
24 | complaints and take the attitude if there is an answer,
25 | let's hear it.

26 | Now certainly it is my respectful sub-
27 | mission that there is no question that the matter must
28 | be your position. The Compensation Board must know
29 | and I think has a right to know the specific charges
30 | that it is asked to face and it should have a reasonable

1 time to prepare its defence. This, I think, is consis-
2 with the common sense position of the Committee that
3 it wants answers in legitimate areas and, secondly, it
4 is consistent with the philosophy of the Legislation
5 which your House has recently passed dealing with
6 public inquiries and I think this Legislation just cam
7 into effect April 17th or a week ago yesterday, and th
8 gist of that Legislation is that anyone who is charged
9 must have advance notice and must have specific notice
10 to enable preparation of a proper defence. So in
11 consequence I think it is manifestly unfair and it
12 frustrates this Committee's purpose to put a witness
13 in the box and to range far and wide without notice.
14 For example, in my respectful submission it would
15 frustrate our purpose to cross examine now on matters
16 that arose in Friday or Saturday's paper. Now please
17 let me restate most emphatically that I do not seek to
18 stifle or suppress in any way any legitimate area of
19 investigation. I make this comment simply as a matter
20 of timing and procedure. An example that I thought
21 may be cited was Mr. Singer and Mr. Deans contributed
22 immensely in my opinion to the orderly progress of
23 the Committee's business when they graciously accepted
24 the Chair's ruling that the land deal and the rehabili-
25 tation matters should stand down until further in the
26 Committee's agenda.

27 Now I am asking if the Committee might
28 think it wise to extend that same principle and to do
29 the following: to continue to deal with matters raise
30 up to the time we adjourned on Thursday. That would

1 continue with the Board generally on points that the
2 Board had knowledge of or was forewarned about; it would
3 deal with the matter of the land acquisition; it would
4 deal with the industrial remissions and the relationship
5 of the Board to major industries and in a large measure
6 that would cover our original terms of reference and in
7 time it would probably carry well into tomorrow. That
8 is really difficult to estimate, but I think you might
9 accurately think that. It is my suggestion then that
10 this Committee do the following: that it call a halt
11 to the taking of evidence possibly for a week or ten
12 days and by some public notice probably by the Chairman
13 that an announcement be made that if any person has a
14 matter that this Committee should deal with or look into
15 that person must come forward and make his position known
16 to the Committee or Chairman or Counsel for the Committee,
17 and in that manner the Board may have notice of what is
18 called upon and have some advance opportunity to prepare
19 its defence, and at the end of that time the Committee
20 should reconvene, it should hear the evidence of those
21 accusers, it should hear the evidence of the defence
22 that the Board has then had an opportunity to examine,
23 and specifically it might at that time deal with the
24 articles in the newspaper of last Friday and Saturday;
25 they might deal with the question of rehabilitation Mr.
26 Deans spoke of; it might deal with the question of the
27 tape recordersthat has been referred to the Board, and
28 some evidence on Thursday as we know is under investigation.
29 It may deal with new matters that^{are} raised and it might
30 also deal with such representatives of industry as I am

1 directed or hope to be directed to call before you if
2 you wish to hear that evidence. But I think at that
3 time if new matters arise after that I think this
4 Committee might properly take the attitude that it
5 would refer back to the House such matters or other
6 action and simply say that we consider it beyond our
7 original reference, time was given to raise these
8 matters and that time was ignored and we must now go
9 on with other business of the Committee. And it is
10 my suggestion in that way you may accomplish two thing
11 (a) you might get the answers to the questions you
12 seek to ask and (b) there may be some element of final
13 that is, this could turn out to be an inquiry by
14 installments, a self perpetuating thing feeding on
15 itself. And it is my submission that if you adopt the
16 principle of drawing a deadline of which you will accept
17 these complaints or deal with these matters you may
18 finally accomplish some end of this. Simply, sir, this
19 suggestion I make as a matter of any decision rests
20 with the Committee, and as far as an expression of my
21 own views I restate they are not intended to influence
22 you in any way but simply so you may understand what
23 I am suggesting.

24 Thank you.

25 THE CHAIRMAN: Mr. Counsel, again for the
26 benefit and the benefit of the Committee, would you
27 summarize briefly the stages that you indicate.

28 MR. DONNELLY: It would be my proposal
29 we continue as originally constituted dealing with
30 those matters that the Board has a prior notice. When

1 we have finished with that we make some announcement
2 and set a deadline. If anyone has matters to be
3 considered before the Committee it must be brought
4 forward by a certain time, and thereafter we re-convene
5 and deal only with those matters. Any further matters
6 that may come up subsequently can be referred to the
7 House or whatever action this Committee thinks proper,
8 but they would not be dealt with here.

9 THE CHAIRMAN: Thank you, Mr. Donnelly.

10 Mr. Deans?

11 MR. DEANS: Mr. Chairman, in general terms
12 I agree with what is being proposed. I think that
13 there is a point with which we should invite persons
14 who have any comment to make with regard to the Board's
15 operation to make those comments to the Committee. The
16 only question I have is in regard to not dealing
17 with matters that appeared in the press after Thursday.
18 My recollection is that one of the matters that appeared
19 in the press was an affidavit from one I believe, Mr.
20 Dowding, who I recall is already under subpoena and I want
21 that he will obviously be called before the Committee
22 and be asked the questions that I had in mind to ask
23 him, but he will also be asked obviously the questions
24 surrounding his statement to the press, and it would
25 seem unfair if we were to inhibit or limit the questions
26 that might be directed to Mr. Legge now in regard to
27 Mr. Dowding's press statement, and have Mr. Dowding come
28 on at another point later and be asked to substantiate
29 them without Mr. Legge or the Board having a chance
30 for rebuttal.

1 Now, you know, those matters are now a
2 matter of public concern and I think we might say that
3 we wouldn't deal with any matter that appears in the
4 press from today on, but I think that the matters that
5 already appear in the press are obviously matters that
6 we have to deal with, since they bear on the subject
7 we were discussing, and the fact that particular state
8 is directly related to the matters that we were question
9 on Thursday last.

10 THE CHAIRMAN: Well, Counsel, Mr. Dowding,
11 he is going to be called, is he not?

12 MR. DONNELLY: He is subpoenaed, sir,
13 and I would expect he would be called, yes.

14 THE CHAIRMAN: So that is one matter
15 that really comes under the heading of matters that we
16 are dealing with at this time.

17 MR. DONNELLY: Subject to this: if the
18 Committee has two alternatives before it, that is, to
19 cross examine Mr. Legge or other members of the Board
20 or Dowding's statement as it is reported in the press,
21 or in Dowding's statement as it may be given before you
22 under oath, I would think it would be much preferable
23 to have the statement taken in the form of evidence
24 under oath and then the cross examination conducted on
25 what he has said as evidence rather than what he has
26 reported to have said as news.

27 MR. DEANS: If I may then just so we will
28 clear up, I don't want -- the way that we were carrying
29 on, the way that we were continuing with the hearing,
30 it appeared to me that we had heard all of the evidence

1 that was pertinent to the statements of Mr. Cauley, and
2 that we had now turned to the Board to hear their side
3 of the story. In doing this some time ago, some week
4 ago or more, I asked that subpoenas be issued for I
5 think ten people, perhaps fourteen people, including
6 Mr. Dowding. The reason I am suggesting that we must deal
7 with it simply is that sure I don't want the Board to
8 be in a position of being sandwiched between the
9 evidence where we have on the one hand the charges
10 being made and we now have the Board who have said --
11 well, Mr. Legge and other members of the Board -- who
12 have said that what was said is not true, and we now
13 have what Mr. Dowding is saying that it is true and if we
14 go back to him again, we start another round, and we
15 must return to Mr. Legge in order to hear what he has
16 to say, and there is one of two ways. Either we put
17 what is in print to Mr. Legge now and get his opinion
18 of it, which then Mr. Dowding has an opportunity to rebut,
19 or we ask Mr. Legge to step down and we hear Mr. Dowding
20 now and then we return to Mr. Legge for the rebuttal,
21 one of the two ways, but I suspect that we have to
22 give ^{to} each an opportunity to hear, and I don't want to
23 end up on a note with Mr. Dowding making the statements
24 that he made in the press to the Committee, then
25 starting as you say self feeding Committee work, that
26 we start all over again going back through all the
27 people then.

28 THE CHAIRMAN: Mr. Allan?

29 MR. ALLAN: Mr. Chairman, I was about to
30 ask a question which you may, Mr. Counsel, you may already

1 have answered, and that was that it seemed to me that
2 the proper way to proceed and to deal with Mr. Dowding
3 statement was to have him here first, take his eviden
4 he has an opportunity to state the things that he -- t
5 charges that he has made definitely to the Committee
6 and at that time then we either recall or -- I think i
7 would be recall, Mr. Legge to give him an opportunity
8 answer those charges and I feel very strongly that thi
9 is the way that it should be done.

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1 MR. DONNELLY: I have made my recommendation
2 to the Committee and it is a matter for the Committee. I
3 think you should keep in mind that although you are not
4 bound by any Public Inquiries Act that certainly that
5 measure of opportunity for defence that you make for law
6 on other persons -- or made defence for other persons
7 you shouldn't extend less yourselves with respect. I
8 think that the Board -- the overall principle is that
9 the Board must have an opportunity to defend the part-
10 iculars of the matter which it is called to defend.

11 THE CHAIRMAN: Mr. Counsel, may I ask at
12 this time how many and who are the past members on staff
13 of the Workmen's Compensation Board that you intended to
14 call?

15 MR. DONNELLY: Well, I have been asked to
16 call I think about or subpoena about 10 people and they
17 have been subpoenaed and I haven't -- I have asked in-
18 structions about interviewing them or having them inter-
19 viewed, but that instruction has been forthcoming but in
20 my opinion they should be interviewed first either by me
21 or someone from the Committee, but we should have some
22 idea whether these people are properly subpoenaed or
23 should be called or wish to give evidence or have matters
24 to come before you with respect.

25 THE CHAIRMAN: How many people have you
26 subpoenaed, former employees?

27 MR. DONNELLY: About 10. I could
28 number them exactly if you wish.

29 THE CHAIRMAN: I think you should.

30 MR. DONNELLY: I think there are 12, sir.

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1 THE CHAIRMAN: That have been subpoenaed
2 MR. DONNELLY: Yes.
3 THE CHAIRMAN: And was it your intent to
4 call all of them?
5 MR. DONNELLY: Well I think they should
6 be interviewed and if they have something to add they
7 certainly should be called.
8 THE CHAIRMAN: Have some of them been in-
9 viewed?
10 MR. DONNELLY: Not by me.
11 THE CHAIRMAN: None whatsoever?
12 MR. DONNELLY: No.
13 THE CHAIRMAN: The members of the Committee
14 perhaps would like to know the names of the would be
15 witnesses.
16 MR. DONNELLY: The witnesses that I referred
17 to are Dr. Bolker Jurk (York), James A. Tallian, Dr. Harry
18 Douglas Alexander, Raymond B. Cater, Paul Dove, Marcus B.
19 Dowding, Robert W. Chappell, James M. Larkin, Mrs. Mary
20 Rodrick (Bishops), Dr. John L. Johnston, Donald C. Brown
21 and Frank H. Visman.
22 THE CHAIRMAN: Had you planned on calling
23 any of those witnesses to the stand today?
24 MR. DONNELLY: I hadn't, sir, no, not today,
25 but subject to your direction.
26 THE CHAIRMAN: Well members of the Committee
27 have heard counsel's suggestion with regard to what forma-
28 we take from herein and that was that we deal with the
29 matters that are at hand and finish that at which time we
30 would have a public notice requesting that anyone that has

1 further information or that is relative to these Hearings
2 that they submit the same by a certain date, and when and
3 if that information is made available then we would carry
4 on from there.

5 MR. DEANS: I want to be clear, that
6 includes the people subpoenaed.

7 MR. DONNELLY: I really think to do a
8 proper job for you I should be given the instruction to
9 examine them or see what they can add.

10 MR. DEANS: You have that instruction as
11 far as I am concerned, you go ahead.

12 MR. MILLER: Mr. Chairman, would it not be
13 a question as to whether Mr. Dowding's testimony does
14 relate to the matters under examination? I read the
15 article here today and I felt that it did relate to the
16 things already discussed, not to the future.

17 THE CHAIRMAN: I have to agree with you,
18 Mr. Miller. This has troubled me considerably. Person-
19 ally I felt that some of these people should even have
20 been called before Mr. Legge because I think it is going
21 to mean that we are going to have to go back to the
22 Chairman of the Board after we hear them perhaps.

23 MR. ALLAN: Mr. Chairman, is there any
24 objection to going back to the Chairman of the Board?

25 MR. DONNELLY: I rather thought he would
26 have to come back if there were other matters.

27 THE CHAIRMAN: Well then is it the Committee's
28 wishes that we adhere to the outline or the format that
29 counsel outlined a few moments ago?

30 MR. GAUNT: Well, Mr. Chairman, if I may,

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1 I think Mr. Deans suggestion is a good one; I think we
2 should instruct counsel to interview these people, the
3 13 people whom counsel has indicated he has subpoenaed
4 indicate if there is any further evidence he feels is
5 important to bring before the Committee. Mr. Dowding,
6 I feel that we should bring him on as quickly as possible
7 I am wondering if he could be subpoenaed for this after-
8 noon?

9 Yes, he is already subpoenaed, but I am
10 wondering if he could come before the Committee this
11 afternoon if that is possible, if some arrangement could
12 be made with him over the lunch hour to appear this
13 afternoon. I think it would greatly facilitate the
14 Committee and everyone concerned because undoubtedly we
15 are going to have to bring Mr. Legge on again after if he
16 reappears and I think that would facilitate the whole
17 procedure.

18 MR. DEANS: Mr. Chairman, Mr. Richardson
19 Clerk of Committee has spoken with Mr. Dowding who in-
20 dicated he was going to be unavailable due to some other
21 commitment after Wednesday for a few days and that he was
22 available today and tomorrow. It would seem to me that
23 we certainly could fit him in today or tomorrow and that
24 we should fit him in today or tomorrow since he has made
25 a statement to the press and that bears rather heavily
26 what kinds of decisions were open.

27 THE CHAIRMAN: I'm sure that it can be
28 arranged, Mr. Counsel.

29 MR. DONNELLY: I'm sure that can be arranged
30 if you wish to have that done. He did speak to me last

1 and I believe he is available on fairly short notice.

2 THE CHAIRMAN: With that in mind we will
3 be hearing from Mr. Dowding today or tomorrow. Is the
4 Committee in favour of the outline Mr. Counsel has
5 suggested to you?

6 MR. DONNELLY: Is he here today? I'm not
7 sure I know him to see him. Is Mr. Dowding here?

8 THE CHAIRMAN: All in favour (The Committee
9 indicates their favour).

10 Counsel seems to be quite pleased with the
11 speed these Hearings are going. Sometimes I might say
12 myself and members of the Committee have not been alto-
13 gether that pleased and I thought I was going to suggest
14 before we get into the matters this morning that -- to
15 counsel for any witnesses and to Committee counsel, that
16 because we have had considerable repetition insofar as
17 questioning is concerned with some previous witnesses that
18 in future if counsel for any of the witnesses or Committee
19 counsel determines that the question has already been
20 asked one or more times/they object at that time or inter-
21 ject and we will rule whether the question should be asked
22 again. I think, you know, we can eliminate some of this
23 and I don't think it is really necessary so I just wanted
24 to leave that with counsel for the witnesses and counsel
25 -- our Committee counsel.

26 Counsel, do you want to proceed?

27 BRUCE LEGGE, Resumed:

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29 MR. DONNELLY: As I recall when we
30 broke off Mr. Legge was being examined -- Mr. Lewis rather

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1 indicated he wished to examine him. Is there someone
2 going to carry on?

3 MR. DEANS: Thank you.

4 THE CHAIRMAN: Mr. Deans?

5 MR. DEANS: Mr. Chairman, on Thursday
6 the
7 last when we rose from/Committee there were two matters
8 that I wanted to raise with Mr. Legge. The first matter
9 was dealing with a statement that he made on page 709 of
10 Thursday evening which when we were talking about his
11 record of attendance at the Hearings Mr. Legge said,
12 you hoped -- speaking to me, "I hope, you know, you would

13 be interested in what else the

14 Board does."

15 And I said I was interested in that and I wanted to know
16 and I asked him if he could tell me how much time in
17 hours or how much of his time in total time spent was
18 spent on the matters of his international relationship,
19 his job, his position in international compensation
20 associations and setting up these boards, seminars and
21 the like and he said he could get that information, he
22 said he could get it calculated and I wonder if he is
23 able to tell us now approximately what amount of time
24 spent on that work.

25 THE WITNESS: As to a generality, Mr.
26 Deans?

27 MR. DEANS: Well you have mentioned that
28 you ---

29 THE WITNESS: Calculation would of course
30 be a guess.

MR. DEANS: Well, what bothers me is the

1 | there has been a lot of discussion about the heavy work
2 | load in regard to administration, the considerable degree
3 | of time spent -- considerable amount of time spent on
4 | the setting up of seminars, the writing of papers, the
5 | attendance at and the involvement in associations re-
6 | lated to Workmen's Compensation, but not directly related
7 | in the day to day operations of this Board and I wonder
8 | now if you are able to give us a clearer picture of what
9 | it is about the administration that takes so much time,
10 | what it is that you actually do? Just take a look at
11 | the Board for a moment. The Chairman of the Board is
12 | somewhat removed I would hope from the day to day decisions
13 | of what should be done by secretaries or what should be
14 | done by investigative officers or what should be done by
15 | other sectors, that that would be a function of the super-
16 | vision of that level, that they would be answerable at
17 | some point to an overall supervision who in turn would
18 | appear to be answerable to Mr. MacDonald and that if the
19 | Chairman of the Board finds that he must devote such a
20 | great deal of time to that, then somewhere underneath him
21 | there is a degree of incompetence -- one might draw that
22 | conclusion -- if the Board must sit or must have a
23 | temporary member in order to take up the Chairman's
24 | position in the hearings there must be some way that you
25 | can quantify the work that is done by the Chairman of
26 | the Board at an administrative level and why that work
27 | isn't shared by the other members of the Board. Why, for
28 | example, certain sectors of the operation, segments of
29 | the operation can't be delegated as responsibilities of
30 | other members of the Board so that they can, let's say,

1 on a Monday and on a Friday -- as I recall there are
2 rarely Board hearings -- the general administrative wo
3 that requires the attention of the Board can be hand
4 Is there any way that you can explain to me why this
5 isn't done, why the chairman does have the full load?

6 THE WITNESS: In the first place, sir,
7 the Chairman doesn't have the full load. I would be
8 very happy to explain the system. The system now with
9 the appointment of Mr. Betts last year is ^apurely
10 functional administrative system so that Dr. Powell is
11 Director of Medical Services. Mr. Ian Campbell who wa
12 appointed last year is the Director of Rehabilitation.
13 And Mr. Thompson is the Director of Finance, Mr. Drape
14 is the Director of Safety, Mr. Azarello is the Director
15 of Adjudication, Mr. Kerr is the Assistant Executive
16 Manager and the Director of the Information Services,
17 Mr. Betts is the Director of Personnel and Mr. MacDonal
18 is the Executive Manager. The duties of each are sort
19 of descriptive in their name. The most important of
20 these people called principal officers who are the
21 equivalent of a vice-president in industry is co-
22 ordinated by the executive manager. The executive man
23 therefore both initiates and carries out policy on, fo
24 and with the Board. The executive manager and all of
25 these functional people deal with me directly; they al
26 deal directly with -- and I suggest to a lesser degree
27 with the members of the Board. But the members of the
28 Board have full access to all of these men and all of
29 these men have complete access to the various members
30 the Board. So it is essentially a matter of planning,

1 a matter of discussion, a matter of dealing on a day to
2 day basis with the problems that confront the Board in
3 its functional management.
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1 I would suggest, Mr. Deans, with the
2 completion of the functional management which has taken
3 seven years to achieve that, in fact, my time -- this
4 a guess -- would be now spent about 50% on that matter
5 which would include telephone, some correspondence to
6 with administration. And then there would be a difficult
7 assessment which is to deal with the -- oh, the preparation
8 of papers and the preparation of speeches, the attendance
9 at meetings, the attendance at seminars, this kind of
10 thing, which is hard to assess and then there would be
11 my attendance at adjudication. So that is really a
12 bird's-eye view of what I do. If you wanted to look
13 at the times -- when I went to the Board there were
14 complaints that the Board became like a bank vault at
15 4:30, that no one could communicate with the Board.
16 One of the things that I inaugurated and have carried
17 for seven years is that all calls coming to the Board
18 after 4:30 come to my office, so from 4:30 until 6:00
19 6:30 I am there. At that time I deal with principal
20 officers, I deal with correspondence and I am available
21 for consultation. So it is a long day, it is like a
22 lawyer's day in a sense and I think that this is very
23 important but I don't really wish to be or seem to be
24 saying that I am overworked but I can say I think very
25 sincerely that I have a six or seven day week and I have
26 a long day and that none of my time is wasted.

27 Now this would be, I guess, an intolerable
28 burden if I didn't believe in the work which all of you
29 on the Committee certainly must believe is important,
30 that is sort of how the day goes, the weeks go. It is

1 very busy.

2 MR. DEANS: You have almost got me crying.

3 THE WITNESS: I would consider that that
4 an
would be/impossible achievement.

5 MR. DEANS: What was it like before? What
6 is so different about the setup now?

7 THE WITNESS: I can tell you, sir.

8 In 1965, Mr. Deans, it is incontestable
9 that the Board functioned in this way. Dr. Steele was a
10 member of the Board; the Board held an insignificant number
11 of hearings so the hearing of cases was an insignificant
12 function and Dr. Steele really, although he wasn't called
13 such, performed as the Director of Medical Services and
14 any matters that came to the Board about the medical side
15 of the house, he dealt with, and he inquired into and he
16 solved. Mr. Cauley, although again he wasn't called such,
17 really functioned as the Director of Adjudication, although
18 again the same proviso pertained. There were an insignificant
19 number of hearings so the Board's time was not spent in
20 adjudication. Mr. Cauley also dealt with labour unions
21 as Mr. Hamilton now does. Dr. Steele dealt with the
22 medical associations. Dr. Steele also, to some extent,
23 dealt with the rehabilitation side of the house. The then
24 chairman, because of his background, Mr. Sparrow who
25 was an industrialist, dealt with the Manufacturers'
26 Association, he dealt with the safety associations which,
27 as you know, are employer safety associations and he did
28 a lot of the fronting for the Board by way of speeches and
29 this sort of thing as did Mr. Cauley. The difference was
30 very pronounced. The Board as a corporation did not have

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1 | the now ten functions of the Board reporting to it
2 | through a responsible vice-president and that was the
3 | difference. The administration of the Board which you
4 | will notice I omitted was done by two people; it was done
5 | by the Secretary, Mr. George Poole, and it was also done
6 | by Mr. A. G. MacDonald who was varyingly called treasurer
7 | and that sort of thing and he did all the administrative
8 | and the financial work for the Board. So the Board now
9 | and I think my colleagues support this completely -- the
10 | Board now is able as a corporation described in the Act
11 | is able corporately to deal with the principal people on
12 | a functional basis. But the fact remains that all of us
13 | have to have access, all of us have to give access to the
14 | principal people and, rightly or wrongly, it involves the
15 | Chairman to be the day to day link with Mr. MacDonald,
16 | Mr. Kerr and the other principal officers and do this
17 | function from 4:30 to 6:30.

18 | MR. DEANS: Do you have with you the
19 | regulations regarding the early retirement of Board members?

20 | THE WITNESS: I can inquire, sir.

21 | MR. DEANS: While we are waiting to hear
22 | it, I want to clear something up. I was under the
23 | misapprehension that the Minister of Labour had said in
24 | the House, I believe about the 7th of April, he met with
25 | the Board to discuss the tape recorded messages. I have
26 | checked since then and he didn't say that and I apologize
27 | for misleading you.

28 | THE WITNESS: Well, there is no problem
29 | but I'm sorry, I didn't hear you, I beg your pardon?

30 | MR. DEANS: Oh, I had been under the

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1 impression that the Minister of Labour had met on the
2 Friday morning -- I think it was the 7th, I don't recall
3 had exactly -- and/discussed the tape recorded messages that
4 were alluded to in the press report.

5 THE WITNESS: No.

6 MR. DEANS: The Minister of Labour pointed
7 out to me after -- I spoke to him at lunch hour -- I
8 spoke to him afterwards, he indicated that you hadn't
9 discussed that.

10 THE WITNESS: I think I said that we
11 hadn't.

12 MR. DEANS: Yes, I only wanted to make it
13 clear.

14 THE WITNESS: I can read you section 8
15 which is a regulation made under the Workmen's Compensation
16 Act by Order-in-Council:

17 "1. Section 8 of Ontario Regulation 115/66
18 is amended by adding thereto the following
19 subsection: (iii) A member who has
20 completed 20 years service may elect to
21 retire on ^apension at any time within a
22 period of five years immediately preceding
23 his attaining normal retirement age and in
24 that event the date ^{on}which the member
25 retires shall be regarded as the normal
26 retirement age and the pension payable to
27 him shall be calculated in accordance with
28 Section 6."

29 This was dated at Toronto the 10th day of February, 1967,
30 and it is on page eight in part of our blue book called

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1 Superannuation Plan, Mr. Deans, on page eight, "Early
2 Retirement" which is paragraph nine, three sub paragraphs
3 paragraph eight with three sub paragraphs and "Disability
4 Retirement" which is paragraph nine with two sub paragraphs.
5 The working of this would have to be dealt with, since
6 is a very technical problem, by the Director of Personnel.
7 I think, if you wanted to get some real information.

8 MR. DEANS: That deals, though, with the
9 right of a member to -- "member" meaning not necessarily
10 a member of the Board but member of the plan. That deals
11 with the right of a member of the plan to accept an
12 actuarially reduced pension, I would assume from reading
13 it?

14 MR. ALLAN: Mr. Chairman, I wonder if
15 could interrupt?

16 THE CHAIRMAN: Yes, Mr. Allan?

17 MR. ALLAN: I had hoped, and I think I
18 have mentioned it to counsel, that we would have a very
19 definite explanation of your pension, your retirement
20 plan, your qualification for pension, and all of that
21 sort of thing and it seems to me, with very great respect
22 that perhaps we could assure ourselves of more 'full'
23 discussion of an item like this if it was dealt with
24 itself, and again with very great respect, if the various
25 members of the Committee would have an opportunity to
26 speak about it because this, I think, is responsible
27 a certain amount of repetition and I am very anxious to
28 go into this fully but I would think, and I would seek
29 the advice of counsel, but I would think that if this
30 was handled by itself and the various members of the

1 Committee had an opportunity to speak that we would get
2 a better explanation.

3 THE CHAIRMAN: Mr. Allan, your point is
4 very well taken and I think we should deal with this
5 matter when we have Mr. MacDonald in the stand, at which
6 time we could go into it in complete detail.

7 MR. AUSTIN: Mr. Chairman, may I suggest
8 that Mr. Betts is the man best qualified to speak on it
9 and he is available at the appropriate time.

10 THE CHAIRMAN: Is Mr. Betts one of the
11 people that will be called?

12 MR. DONNELLY: Yes, sir, I suspect so.

13 MR. DEANS: Well, before we go wandering
14 off, without getting, you know, into the meat of it,
15 perhaps, what is being discussed in Section 8 of the
16 Superannuation Plan is not the conditions under which
17 Board members retire early and use up their sick leave
18 credits and vacation credits and the like, I want to make
19 that clear, that has not anything to do with this.

20 MR. AUSTIN: It is half of that, not the
21 sick leave credits. It is early retirement.

22 THE CHAIRMAN: But again, I think we can
23 get into this when we have Mr. Betts in the stand.

24 MR. LEWIS: Well, it may be convenient in
25 terms of discussion but it avoids a rather primary link
26 in what we are exploring which is that the Chairman of
27 the Board signed the Board order effecting Mr. Cauley's
28 retirement, therefore, the Chairman of the Board presumably
29 knows the precise practices relating to early retirement
30 and how Mr. Cauley's early retirement varied from

1 | traditional practice. And while it may be necessary
2 | to adduce traditional practice from other members of the
3 | Board, it is the Chairman who signed the Board order
4 | and some of us would therefore like to have the continu
5 | of what brought him to make that quite appreciable
6 | variation between the pattern in the Board and what was
7 | given to Mr. Cauley. Now you are going to break that
8 | line of argument which is an important line of argument,
9 | Mr. Chairman, it is essential to what we are discussing.
10 | If we are going to start discussing how the plan works
11 | with some Board members and how the plan was interpreted
12 | by other Board members and how finally the Chairman came
13 | to sign the Board order and I understand -- I think all
14 | of us are perplexed by what has occurred around early
15 | retirement but in terms of understanding the events
16 | around Mr. Cauley, I think it is important that Mr. Legge
17 | give us, at some point, his view of how it all transpire
18 | and how the two are related.

19 | MR. ALLAN: Mr. Chairman, with very great
20 | respect, it seems to me that we can discuss that so much
21 | more intelligently after we have acquainted ourselves
22 | with the regular procedure and then we say, "How did thi
23 | differ?" if it did differ.

24 | MR. LEWIS: Jimmy, with a deference equal
25 | to your own, let me tell you that I would like to hear
26 | even before Mr. MacDonald gives his definition of early
27 | retirement what Mr. Legge feels his definition of early
28 | retirement to be because presumably he signed that Board
29 | order with some knowledge of its implications.

30 | MR. ALLAN: I would like to know whether

1 the Board order he signed was an extraordinary Board order.

2 MR. LEWIS: Well, precisely.

3 MR. ALLAN: That's why I am -- that's why I
4 would like to know what the regular was.

5 THE CHAIRMAN: Perhaps we could have the
6 question put in that manner and deal with it at least
7 briefly and get into it in detail when we hear from the
8 other witnesses.

9 Do you want to put that question briefly?

10 MR. DEANS: Well, I ask, was the Board
11 order -- I mean, to put it in a way that Mr. Allan might
12 ask -- was the Board order that was signed for Dr. Steele,
13 the Board order that was signed for Mr. Cauley, considered
14 to be early retirement under the early retirement plan as
15 set out in the Superannuation Plan?

16 THE WITNESS: I would say that it was in
17 accordance with that and I think that to look at the Cauley
18 Board order is very pertinent. Mr. Cauley will be permitted
19 to use existing sick leave and holiday credits plus a
20 grant of an additional 25 days of credit to allow payment
21 of full salary until the normal retirement date of
22 August 19th, 1971. The actual pension at that time, at
23 the existing salary level, will be \$11,036.00 annually
24 which is a monthly pension of \$919.22. And then the extra
25 things that have nothing to do with the practices of the
26 Board for an employee, Mr. J. F. Cauley -- this is the
27 first extra thing, where we granted one additional -- I'm
28 sorry, it is the second extra thing, the first was the
29 25 days -- Mr. J. F. Cauley will be granted one additional
30 retroactive adjustment in salary to be made by the

1 Commissioners of the Board as if he were retaining an
2 active service as Commissioner with the resultant adjustment
3 in retirement pension. Additionally, any adjustments in
4 group insurance during the period until his normal
5 retirement date will be granted and thirdly, after
6 retirement in 1971 a consultancy will be established for
7 one year.

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1 MR. DEANS: The question that flows from
2 it is a person -- Mr. Cauley either retired in 1969
3 and started at that point to draw his early retirement
4 benefit under this program, or he didn't retire until
5 1971 and he started to draw his pension. Now he can't
6 be in both situations at the same time. Mr. Cauley
7 apparently sent to the Board a letter of resignation,
8 that letter of resignation took effect by Order-in-Council
9 on May 1st, 1969. That meant that Mr. Cauley had
10 severed his relations with the Board, that meant that
11 he had to be either discharged, he either was no longer
12 an employee of the Board and receiving the retirement
13 plan, his retirement or his pension, or -- that's what
14 it meant, it could mean no other thing. It meant that
15 Mr. Cauley on May 1st had left the Board's employ and
16 was on pension, whether early retirement or otherwise,
17 if he had quit.

18 How can you have an Order that says a
19 man who has left the Board, who has resigned, will
20 continue at full salary until August, 1971. Where in
21 the regulations -- where in any regulation of the Board
22 is there proviso for permitting a person to receive a
23 salary from the Board after he has retired and his
24 retirement has been accepted by the Cabinet other
25 than through the early retirement program, was under
26 the superannuation plan. Where is there a regulation
27 to cover that?

28 THE WITNESS: Well of course with Mr.
29 Cauley, an Order-in-Council appoints -- allows him to
30 retire -- as the Order says, the Order of the Board,

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1 he is going to use up -- and we should all understand
2 his count of existing sick leave and holiday credits
3 with the additional grant of 25 days took him to his
4 65th birthday on the 19th of August, 1971.

5 MR. DEANS: I want to see the Order-in-
6 Council.

7 MR. ALLAN: Mr. Chairman, I wonder if I
8 could interrupt?

9 THE CHAIRMAN: Mr. Allan?

10 MR. ALLAN: This is why I say that the
11 first thing we should know is what you regularly do.
12 This is what I want to see.

13 MR. DEANS: Could I see the Order-in-
14 Council, please?

15 MR. ALLAN: I would like to ask the
16 question, in your regular retirements does the man use
17 up his holiday pay, or does the person use up his
18 holiday pay before his resignation or afterwards?

19 THE WITNESS: He is allowed to use, Mr.
20 Allan, his collection of accumulated holiday and sick
21 credits.

22 MR. ALLAN: Doesn't he use it before,
23 before his separation occurs?

24 MR. DEANS: That is what I am getting at.

25 MR. ALLAN: This is why I think we would
26 make better progress to approach this in the other
27 direction.

28 MR. DEANS: I do think, though, that
29 we understand the situation.

30 I mean I don't think there is any question

1 about misunderstanding of what is going on and I think we
2 can deal with it. The situation is that if a person
3 retires he can still be on a salary, surely, and I am
4 trying to find the Order-in-Council of the Government
5 and I can't find it at the moment, but I don't recall
6 that the specific conditions set out by the Order of the
7 Board are contained in the Order-in-Council. I seem to
8 recall that they are not, and therefore the only thing
9 then -- since the Cabinet -- the Lieutenant Governor
10 in Council, the people who hire the members of the Board,
11 they appoint them, they set the conditions under which
12 the appointment takes place and when this retirement, or
13 when the resignation is accepted they then must in their
14 Order set out the conditions under which the retirement
15 is accepted, or under which the resignation is accepted,
16 and I ask to see from the Board any regulation or any
17 document authorizing the Board to enter into an agreement
18 with any individual whose resignation has been accepted
19 by the Cabinet to pay him for a period after the
20 resignation was accepted. I want to see that authorization,
21 I want to know where the Board derives its power from,
22 you know, which statute or from which regulation the
23 Board gets its power to pay a person a salary after
24 his resignation has been accepted by the Cabinet, and
25 that resignation bearing in mind that was accepted as
26 of May 1st, 1969.

27 Where is that regulation?

28 THE WITNESS: Well, there are only four
29 people whose salaries are set by Order-in-Council, to
30 the best of my knowledge; they are the three Commissioners

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1 and the General Manager. The General Manager is different
2 to the Commissioners in that he of course is selected
3 from the staff, therefore appointed by the Board. It is
4 quite right to say that the Commissioners are appointed
5 and so on by Cabinet by Order-in-Council. The problem
6 about Mr. Cauley I think is not the question of regulation,
7 Mr. Deans. It seems to me it is a question of fairness
8 in that the Board's order was based on what he said was
9 his credits, and we acknowledged that and we paid and it
10 happened that with the gratuitous addition of 25 days
11 which really turned out to be one day that in fact this
12 took him to his 65th birthday, which I believe is 19th
13 of August, 1971.

14 MR. DEANS: You're missing the point, Mr.
15 Legge. I am not quarreling with the Board's generosity;
16 I am not quarreling with the kindness of heart that was
17 shown by the Board in paying Mr. Cauley. I am asking
18 where you get the authorization to do this. How can
19 you possibly continue to pay a person, how can you
20 possibly continue to allow him to accumulate sick leave
21 after he has resigned, and after his resignation has been
22 accepted? Where is the regulation that gives the Board
23 that kind of power?

24 THE WITNESS: I guess I didn't sound very
25 clear. Obviously, sir, there are no regulations on this,
26 it is a question for the three members of the Board of
27 fairness.

28 MR. DEANS: Do you think it is reasonable
29 that a person who resigns who has an option to take an
30 early retirement plan, an option to take early retirement?

1 under the superannuation plan, should be treated differently
2 by the Board because he is a Board member than any other
3 employee of the Board should be treated after spending a
4 similar length of time serving the Board? Do you think
5 it is right that the Board -- considering the Board
6 members are included as I understand in the superannuation
7 plan and considering that they are then subject to the
8 same benefits as all other employees of the Board -- does
9 it seem fair to you that the Board should sit in judgment
10 on itself without any regulation whatsoever to govern
11 it, and should grant the person a year and a half or a
12 year and nine months or two years of salary at full
13 rate beyond the period when his resignation was accepted,
14 and allow him to accumulate sick leave during that period?

15 Does that seem reasonable?

16 THE WITNESS: In view of Mr. Cauley's
17 service it obviously seemed reasonable to me at the
18 time; it seemed reasonable to the Minister at the time,
19 and it still seems reasonable to me vis-a-vis Mr. Cauley.
20 I don't think that, you know, you can really say that a
21 Commissioner is precisely the same as an employee, and
22 I think that we acted within our license as reasonably
23 and as generally as we could and it was acceptable to
24 the Minister and it was acceptable to Mr. Cauley.

25 MR. DEANS: Again we are -- I hate to go
26 back over it again, but it is not a matter of reason,
27 it is not a matter of reason, it is a matter of three
28 men sitting down and setting a precedent, a precedent
29 which will be carried over from Board to Board to Board,
30 that any Board member leaving the Board would have the

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1 right -- and I think you might agree -- at least the right
2 to claim that he was being mistreated if he didn't
3 receive similar considerations to the considerations given
4 to Dr. Steele and Mr. Cauley.

5 Now the Board doesn't have the right to
6 set its own salary as we discussed earlier; the Board
7 doesn't have the right to establish its own fringe
8 benefits as I understand it; it is a part of the general
9 program -- what right then does the Board have to decide
10 that it will pay out monies that are received from
11 companies operating in the Province of Ontario in order
12 to pay one of its friends, its fellow Board members, a
13 salary for two years after they leave the Board, after
14 they resign? I mean why did Mr. Cauley -- why was Mr.
15 Cauley not told that he was eligible to get his retirement
16 at age 62 or age 63 in accordance with Section 7 of the
17 superannuation plan calculated on the basis of Section
18 in accordance with Section 8 and that he should do that
19 if he wished to leave the Board. In other words, he
20 should retire early. But how do you have the power --
21 how do you have the power in the Board to do these
22 things, to pay out money to people when in fact they
23 are no longer employees? Can you do that for any
24 employee?

25 THE WITNESS: I think that it is in the
26 Board Order and I think that we have the authority to
27 do it for Mr. Cauley; I think it was the right thing
28 to do for Mr. Cauley and I still think it was.

29 MR. DEANS: But you are dealing in what
30 is right and what is wrong. I am dealing with what is

1 legal and what isn't. I am asking where, where it is that
2 you are permitted to do this. We constantly come across
3 the problem, Mr. Legge, of you saying to me when we come
4 before you, "It is in the Act," and you ---

5 THE CHAIRMAN: Mr. Deans, I think I am
6 going to have to interject at this point. I think the
7 witness has answered to the best of his ability to
8 circumstances surrounding this and it is up to the
9 Committee now to decide whether it is proper or improper.

10 Have you further questions, Mr. Deans?

11 MR. DEANS: No, I have no further questions.

12 THE CHAIRMAN: Mr. Allan?

13 MR. ALLAN: Could I ask you again, Mr.

14 Legge ---

15 THE WITNESS: Yes, sir.

16 MR. ALLAN: In the operation of your Board
17 which is an autonomous corporation, isn't it, that is, if
18 new legislation has been passed and you have been set
19 up as a Board of which you were the head; you are not a
20 part of a Department and it doesn't seem to me proper
21 that you go to the Minister of Labour for advice in the
22 administration of the Board, that is the responsibility
23 of the three Board members. But even with that -- even
24 having been acknowledged that you are in that position
25 has it been the practice of the Board to try and operate
26 -- to try to follow let's say the policy or the format
27 of the Civil Service Commission in their dealing with
28 this sort of thing?
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1 THE WITNESS: To a certain extent, Mr.
2 Allan.

3 MR. ALLAN: What would be the reason for
4 not following it?

5 THE WITNESS: It was said very early in
6 my learning process at the Board that no Crown corporation
7 could deviate substantially from the accepted practices
8 of other employees of the Crown in the Civil Service or
9 other Crown corporations but these did not have to all
10 coincide. And that, for example, changes were made which
11 I am not competent to discuss about our pension plan and
12 that some of our employees who felt that they did have
13 a certain right under our pension plan had those rights
14 changed at a certain time in order to make them conform
15 to the Civil Service standards. So there is this desire
16 to have them similar, but not identical. In the past on
17 some occasions they have by government order been made
18 similar and then made identical. The reason for not
19 having the Board as part of the Civil Service is, I think
20 twofold. The first is that the Board does not deal with
21 tax money; the Board deals with assessments on industry;
22 and therefore the Board should be like a business more
23 than it should be like the civil service. There is an
24 enormous investment/^{portfolio}-- for example, there is a modified
25 reward system in the salaries. Everyone doesn't auto-
26 matically get the same increase. A person who performs
27 better than average can get a little better salary than
28 the person who is in the norm and the person who is
29 unsatisfactory may get a marginally less salary. So just
30 to give you that as an example of the business approach.

1 MR. ALLAN: That may be the business
2 approach, but the employees -- I mean within the Civil
3 Service there are means of accomplishing everything that
4 you mentioned and, you know, it would seem to me that
5 those persons who contribute to the funds to carry on
6 the Workmen's Compensation Board could very reasonably
7 expect you to follow the procedure that is in effect,
8 for instance, in other government employees and I think
9 everyone would admit that the Civil Service, present
10 Civil Service of the Ontario Government have a very,
11 very good salary setup and plan to reward those, and pro-
12 mote those that show ability and performance that is
13 good and it seems to me that you get yourself out on a
14 limb when you proceed to do things differently. And I
15 think I know that the government is desirous that these
16 Crown corporations should follow the lead of the govern-
17 ment in dealing with their employees.

18 THE WITNESS: I think that is certainly
19 the philosophy of the Civil Service with which I don
20 quarrel having been a member of the Federal Civil Service
21 for 15 years. All I can say with the greatest of respect
22 is that was not the system that was at the Workmen's
23 Compensation Board when I went there. The one question
24 that I alluded to where the Board was subsequently brought
25 into line is in accordance with your philosophy so there
26 has been a measure of conformity along the lines that
27 you suggested. The remaining difference which I hope
28 will certainly continue if the Board is to be a business
29 like organization is the incentive system in the salary
30 role.

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1 MR. ALLAN: Mr. Chairman, just one more
2 item. It seems to me, and this I want to find out, is
3 how you handle your retirements. But it seems to me tha
4 the proper procedure would have been for anyone to use
5 up his vacation credits before he resigns.

6 THE WITNESS: I can certainly follow that
7 and I know that Mr. Deans knows that I have always ---

8 MR. ALLAN: I know you follow that in you
9 Board, but I wanted to get the foundation of what you
10 regularly do.

11 THE WITNESS: Yes, we do.

12 MR. DEANS: Mr. Legge, do you permit all
13 of the employees of the Board to use their sick leave
14 credits and vacation credits in the years immediately
15 preceding their retirement plan?

16 THE WITNESS: On the early retirement I
17 believe so, on the early retirement provisions.

18 MR. DEANS: But any employee of the Board
19 is entitled to take whatever length of time he has in
20 regard to sick leave credits and to take that time off?

21 THE WITNESS: I can only tell you the
22 Board Order, Mr. Deans, which is dated the 2nd of July,
23 1969.

24 "As recommended by the Executive
25 Manager, Mr. A.G. MacDonald, in his
26 report of the 24th of June, 1969 it
27 is directed that the Board may, on the
28 recommendation of the department head,
29 allow an employee who desires to retire
30 early leave of absence with pay to
the extent of his or her attendance

credits with the retirement date at
the expiration of the attendance
credits."

MR. GOOD: What is the date of that, July
2nd, 1969?

THE WITNESS: July the 2nd, 1969.

MR. DEANS: That came into effect after both
Dr. Steele and Mr. Cauley left the Board?

THE WITNESS: Yes.

MR. DEANS: What was the practice prior
to that?

THE CHAIRMAN: Mr. Deans has asked what
was the practice prior to that.

THE WITNESS: This is really a codification
of the practice that pertained to -- if I recall correctly
-- to three people: To Dr. Steele, to Mr. Cauley and to
Mr. Ledsham.

THE CHAIRMAN: Mr. Newman?

MR. NEWMAN: At the risk of being repet-
itious, Mr. Legge, as to the question about how you have
been away I know you've been away at conferences, you
have holidays, you have military leave and I understand
you have a law office -- I don't know whether you are
spending any time there or not -- but can you tell me
over a period of the year 1971, say, approximately how
much time you have actually spent in the Board offices,
you know, carrying out your functions, do you know at
the Board offices.

THE WITNESS: Yes, sir. Dealing with
the law office which you snuck in on me, the time at the

1 law office since my appointment to the Workmen's
2 Compensation Board is nil.

3 Now the second question for the year 1971

4 MR. NEWMAN: Yes.

5 THE WITNESS: For the year 1971 I had
6 three days of vacation; I had no time due to sickness and
7 I had 16 days of military leave in the year 1971.

8 MR. NEWMAN: Were you at any conferences

9 THE WITNESS: Yes, I think so.

10 In the year 1971 I attended a rehabilitation
11 ion conference in Edinburgh for one week and I gave a
12 major paper there on rehabilitation.

13 In the same year, in 1971, and I haven't
14 got this fully documented-- I am speaking from memory --
15 I was paid by the Royal Society for the Prevention of
16 Accidents, they paid for me to go to give a major paper
17 on accident prevention in Ontario, they paid all expenses
18 and that also took one week.

19 And I also was away for four working days
20 believe to give a major paper at the World Rehabilitation
21 Conference in Tokyo.

22 MR. NEWMAN: What is your entitlement for
23 vacation, four or five weeks?

24 THE WITNESS: The Board members tradition-
25 ally have had one month vacation. I have had that month
26 in the year 1966 which was to go to the Northwest
27 Territories to do the Commission of Inquiry into Compete-
28 sation there for the Federal Government with the express
29 request and approval of the Government of Ontario where
30 they felt as an honour to this government -- to the

1 government.

2 MR. ALLAN: Mr. Chairman, this word "early
3 retirement" has been mentioned very often. You see, I
4 don't want to thrash old straw but this I would hope we
5 would have developed because I find it very difficult
6 to understand what you mean by "early retirement" because
7 in the Civil Service to the best of my recollection you
8 can retire with a full pension at 60. I take it that
9 your date of retirement is 65; is that right?

10 THE WITNESS: It is also 60 in certain
11 cases, sir. But I am entirely ---

12 MR. ALLAN: I would like to know what
13 early retirement is.

14 THE WITNESS: I can tell you the two ideas
15 about early retirement, but I am completely in your camp
16 on this issue. I don't think you want to talk to me about
17 the details.

18 MR. ALLAN: I didn't think so either.

19 MR. AUSTIN: Mr. Chairman, this is spelled
20 out in the booklet which is filed as an Exhibit.

21 THE CHAIRMAN: Fin .

22 MR. AUSTIN: The normal retirement age is
23 65 but you can retire at 60 if you have 20 years service.

24 THE CHAIRMAN: Any other questions from
25 Committee members?

26 Mr. Good?

27 MR. GOOD: I was on your list I thought.

28 THE CHAIRMAN: That's right.

29 MR. GOOD: Mr. Chairman, one matter here
30 perhaps Mr. Legge would like to deal with. The Minister,

1 Mr. Bales, had indicated when he was before us previous
2 and I will read from the transcript, page 63 of April
3 5th.

4 THE WITNESS: I wasn't here for his
5 testimony.

6 MR. GOOD: Going back to page 62 and 63
7 and I was trying to get the Minister to put a dollar value
8 on the benefits that Mr. Cauley was to receive on his
9 retirement and then we got into the matter of the
10 Minister's involvement and he said, "Well, I knew the
11 policy of the Board, that a person
12 could take early retirement."

13 And then he was questioned as to the -- this is at the
14 top of page 63 -- as to whether there really was a policy
15 and he said, "This had been an arrangement made
16 previously and this would apply
17 naturally to Mr. Cauley. And I knew
18 of that policy but I wanted to know
19 in the light of Mr. Cauley's advice
20 that he did have substantial sick
21 credits."

22 Mr. Bales gave us to understand that he was aware of
23 Mr. Cauley's sick credits, but he wouldn't indicate
24 whether it was sick credits or salary that was being
25 used and I think Mr. MacDonald answered a question of
26 mine later in the transcript which indicated that it
27 was salary. Now the point here is, the first part of
28 the Board order dealing with Mr. Cauley's retirement
29 which gave him his salary up to 65. Now you will not find
30 lower in the page Mr. Bales goes on to say, "Mr. Cauley

1 when he was in my office, I had
2 agreed to the general arrangement, at
3 least this is my understanding, that
4 we had agreed upon general arrange-
5 ments. The matter of any retroactive
6 salary had not then and could not
7 then be finalized because it had not
8 been passed by Order-in-Council."

9 Now, this had to be sometime between Mr.
10 Bales meeting with Mr. Cauley on May the 5th and the
11 Board order on May the 8th. Now, how could the second
12 section appear in the Board order on the authority of
13 the Board when Mr. Bales indicates that this couldn't
14 be dealt with because there was no Order-in-Council? In
15 other words, the retroactive salary had to be dealt with
16 by Order-in-Council because, as you are aware, the appoint-
17 ments and the salary of the Board are done by the Minister,
18 not by the Board itself and of course we maintain the
19 fringe benefits should as well. The second section
20 of the Board order, how could that appear in the Board
21 order at that time when the Minister himself says that
22 it could not be finalized because it had to be passed
23 by Order-in-Council? On what authority is that second
24 section in the Board order dated May the 8th?

25 THE WITNESS: I can't help you in any way
26 except to say that it was done in good faith by the
27 Board and I guess the only answer is on our view of the
28 authority of the Board to make that -- but I see com-
29 pletely what you are saying.

30 MR. GOOD: And then as we first turn or at

1 | least as we learn for the first time this morning, on
2 | July the 2nd ---

3 | THE WITNESS: Where are you reading from
4 | sir?

5 | MR. GOOD: Just from my notes. On July
6 | the 2nd you did pass a Board order, July 2nd of that
7 | same year, 1969, stating that the Board member may, on
8 | the recommendation of a department head, be allowed lea
9 | of absence until his vacation and sick benefits are
10 | used up. In other words, that Board order of July the
11 | 2nd really covered what in my view were discrepancies
12 | in your action both with Mr. Cauley and Dr. Steele and
13 | the other gentleman that you have mentioned.

14 | THE WITNESS: I am simply recalling Mr.
15 | Ledsham.

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1 I don't wish to appear here as a defender
2 of our legal position. I guess again all I can say is
3 we thought we were doing the right thing and we passed
4 it solely on the authority of the Board.

5 MR. GOOD: But you didn't ever question
6 whether or not the Board had that authority? In your
7 mind did you not feel that perhaps ---

8 THE WITNESS: It is a vexed area about
9 this kind of thing. The understanding that the Board
10 had from the Minister is reproduced in our Board order.
11 I don't think that at that point in time -- I won't say
12 that I haven't subsequently thought about it but at that
13 time it never occurred to me at all. I thought that we
14 were doing the right thing for Mr. Cauley, it had
15 ministerial approval and that's about it.

16 MR. GOOD: But the Minister, you said --
17 the retroactive salary could not then be finalized because
18 it had not been passed by an Order-in-Council and he said
19 the same thing of the consultancy clause, the next clause
20 in the Board order, the Minister told us, and I happen to
21 have the page on that, that he was not aware of that
22 until several months after the Board order. Now those
23 were his words, "several months after the Board order"
24 and all of these things were not ratified by Order-in-
25 Council until the following January.

26 THE WITNESS: Yes.

27 MR. GOOD: That was the point I wanted
28 to explain -- get an explanation.

29 THE CHAIRMAN: Mr. Deans?

30 MR. DEANS: Do you agree that there is a

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1 considerable difference / the order passed by the Bo.
2 dealing with the use of sick leave credits as appl.
3 employees of the Board and the circumstances surround
4 -- and the order surrounding Mr. Cauley's and Dr. Stee
5 retirement from the Board, and in the one instance the
6 Board has the authority to grant a leave of absence wh
7 is considerably different from a person who has sever
8 connections with the Board. In the one case, during
9 leave of absence, I would assume -- perhaps incorrect
10 but I would assume that a person on a leave of absence
11 drains on sick leave credits would not be able to seek
12 get alternative employment.

13 THE WITNESS: An employee, sir?

14 MR. DEANS: An employee of the Board on
15 leave of absence receiving sick leave credits would be
16 unable to receive to go and obtain alternative employment.
17 Would you concur in that view?

18 THE WITNESS: I frankly just don't know
19 I would think that if the man could find an easy job,
20 light work ---

21 MR. DEANS: Would the Board then continue
22 to pay this person his salary during his leave of absence
23 if this person had obtained another job?

THE WITNESS: Well, I am not really trying to bandy words with you, I just don't know. I think it would turn on whether it was a little bit of a part time job or what it was, Mr. Deans. I just don't know and have people who can deal with it but I can't.

29 MR. DEANS: You don't know?

30 THE WITNESS: I just don't know, sir.

1 THE CHAIRMAN: Are there any other questions
2 from Committee members?

3 Other members?

4 Mr. Lawlor.

5 MR. LAWLOR: I would like to explore for
6 a few moments the restructuring process that took seven
7 years. When you first came -- for instance, Mr. Cauley
8 was, as you say, acting as in effect director of
9 adjudication. At some subsequent point, you thought it
10 would be better to segregate off that function, I take
11 it, with the general view to freeing the members of the
12 Board for purely or largely overwhelmingly adjudicative
13 tasks which is what the purpose of the Board ---

14 THE WITNESS: No, sir.

15 MR. LAWLOR: No?

16 THE WITNESS: No.

17 MR. LAWLOR: All right, tell me.

18 THE WITNESS: If I understand your question
19 correctly, the reason for the functional management of the
20 Board, Mr. Lawlor, was not to free the Board for adjudication
21 at all but to make the Board corporately responsible for
22 the ten functions that the Board has, ranging from medical
23 service through personnel to finance, say. So, in fact,
24 no one Board member would be the technical head of a
25 function but the technical head of the function would be
26 that would likewise called the principal officer/report to the Board.
27 Now in order for the Board to be able to deal with this
28 man, the Board would have to do a deal of briefing and a
29 deal of thinking and so on or it couldn't really be
30 anything other than a ratifier of what an expert would
say. So the idea was to make a corporate management

6-4

1 for which the whole Board, as a corporation, the three
2 would be
3 members. /both morally and legally responsible, and that
4 could be done intelligently. And as to your second
5 inquiry, no, sir, I didn't do it. I persuaded the Board
6 of the day that this was in fact an improvement and that
7 agreed.

8 MR. LAWLOR: First of all, I would like
9 to see submitted to the Committee somewhere along the
10 road a list of when the various functions were set up
11 the men appointed to them. The question at the moment
12 without going through each of the ten in serial order
13 inch ---

14 THE WITNESS: We will avoid in serial order.

15 MR. LAWLOR: Let's take one, the business
16 of the director of adjudication, when would he have been
17 appointed?

18 THE WITNESS: Yes, I can show you the
19 order. I am told that we don't have it here but it
20 would have been when Mr. Poole was made Director of
21 Associate
22 Adjudication. The Secretary of Research says that he
23 thinks it was on the 16th of September, 1968. But we
24 can produce this for you, with pleasure.

25 MR. LAWLOR: What date, if you possibly
26 can, was the last of these functions set up and the
27 power when was that finished?

28 THE WITNESS: The last function, would be
29 Mr. Hamilton explained to the Committee, sometime last
30 year when Mr. Betts was recruited from the Federal Service
31 where he was an Assistant Deputy Minister, to come and
32 the Director of Personnel for the Workmen's Compensation

1 Board and this was by way of upgrading a department to
2 a functional management thing and that was the last --
3 and as plans now stand, it would seem to be the completion
4 of the machine.

5 MR. LAWLOR: Have you also been engaged
6 in restructuring the administrative aspect of the Board
7 further down the tree?

8 THE WITNESS: The question of changing
9 in
responsibilities resulting/changing people and a changing
10 organization that goes on continuously and it does go
11 on down the tree, although we don't think of it as being
12 down the tree. We tend to think of it as being the
13 finance team or the adjudication team or the medical
14 team and these responsibilities interlace and change
15 all the time.

16 MR. LAWLOR: Over the years have there
17 been a fairly fundamental hierarchizing , echeloning
18 all the way through of the operations of the Board.

19 THE WITNESS: I would think there has
20 been no hierarchizing unless you mean that there are
21 different responsibilities. There certainly are different
22 responsibilities. The question that is always before the
23 Board with the functional management approach is that
24 we want -- everybody wants -- that responsibility should
25 be at the lowest possible level. For example, in the
26 claims function, Mr. Lawlor, a claims officer, if he
27 accepts the evidence of a workman with the medical
28 diagnosis supported by an employer could, for example,
29 bind the Board by his decision and he would be part of an
30 adjudication team to, say, a quarter of a million dollar

6-6

1 expenditure in direct pension. So the whole question
2 to find responsible people, to train responsible people
3 to get them to feel part of a team so that the lowest
4 possible level this great authority can be assumed and
5 exercised in an expert and responsible way. So all
6 through the Board the emphasis is on being an expert
7 dealing with it as a matter of urgency and dealing with
8 it as a matter of responsibility. And there is no
9 different responsibility, in my view, to say the General
10 Manager's responsibility as/to responsibility and the chairman
11 officer, or the initial doctor. They all have to be
12 responsible for what they do and the only way they can
13 be really responsible is if they are expert in the sense
14 of emergency and devotion and getting out of it.

15 MR. LAWLOR: Well, Mr. Chairman, if I may
16 say what I am getting after here, we have had attendance
17 records which on their face and on further investigation
18 appear to be pretty damnable insofar as the adjudication
19 process. The reasons given / for that is twofold: one, being
20 restructuring of the administrative echelons were undertaken
21 and which was very terribly time consuming and the other
22 being, and I'll come to it in a minute, the international
23 aspect, the emissary of goodwill, carrying the message
24 of Otto Von Bismarck to the hinterlands. Otto Von Bismarck
25 Mr. Chairman, was the man who first brought Workmen's
26 Compensation into being.

27 THE CHAIRMAN: You don't have to tell me.

28 MR. LAWLOR: Oh, good, right. You look
29 puzzled, that's all.

30 I am interested from two angles and it

1 invariably affects personality. I would like to really
2 see what the structure of that Board was when Mr. Legge
3 first became the chairman, as to what -- and I prefer
4 to call them the echelon -- and to what they are today
5 because Otto Von Bismarck may have more than a dual role in
6 the operations of the Workmen's Compensation Board in
7 Ontario. He may be the initiator and his spirit may
8 continue to somehow shroud it to preside and I suspect
9 that there is a fairly tight ship there and ^{the} echelon is
10 a situation which would be very interesting in the terms
11 of a justification used by the Board in the absences
12 that we have seen.

13 Secondly, what was the paper that you gave,
14 at a
15 I believe in 1970, World Committee on Medical Law in
16 Washington?

17 Do you remember that?

18 THE WITNESS: I haven't finished with the
19 first question, Mr. Lawlor. I didn't understand what
20 you were asking me. I wonder if you could ask me again,
21 sir?

22 MR. LAWLOR: Well, I think it comes down
23 to this: one can't really ask you a question until
24 you see the comparative position of the structure of
25 that Board at two different and distinct times.

26 THE WITNESS: Which times would you like?

27 MR. LAWLOR: When you became the Chairman,
28 what was it, '65, '66, and as it stands today, the
29 contrast and comparison of the structure.

30 THE WITNESS: We can certainly have that
prepared. I have explained to you.

1 MR. LAWLOR: Good.

2 Now the second thing has to do with the
3 international relations, what was the paper?

4 THE WITNESS: Well I don't deal with
5 international relations. What I deal with are various
6 subjects which concern compensation in Canada, in the
7 United States and in the international associations that
8 the Board has from time immemorial supported. The word
9 "international" like the context "Bismarck" is slightly
10 coloured. Bismarck, of course, introduced a very different
11 type of compensation into the Prussia of his day. The
12 spirit of Bismarck is one that doesn't intrigue me as it
13 does you. I think that this has nothing to do with the
14 compensation system that we have now and I can't say
15 further than that but I will produce the chart for you.

16 THE CHAIRMAN: I think we will rule out
17 further discussion on Bismarck.

18 MR. LAWLOR: I was just going to say that
19 he did have his benign side, you know.

20 THE WITNESS: Well, I find that lots of
21 people have a benign side.
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1 THE CHAIRMAN: Have you any other questions?

2 MR. LAWLOR: Yes. I haven't got an
3 answer to the paper that I am after in 1970.

4 Do you remember what paper you gave? By the
5 way, all these papers you describe, ^{Mr. Legge,} are major papers and
6 I would like to see what miner/ ^{one} was, but what was the
7 paper to the World Committee on Medical Law?

8 THE WITNESS: The title of the paper which
9 I don't have before me had to do with secrecy in medical-
10 legal administration.

11 MR. LAWLOR: Now another thing I would
12 like to see ---

13 THE WITNESS: Would you like a copy?

14 MR. LAWLOR: Is that as much as you can
15 say about it?

16 THE WITNESS: No, I wasn't asked anything
17 else.

18 MR. LAWLOR: Was the subject matter this
19 secrecy bit in the medical area, have you given papers
20 similar to that on previous occasions?

21 THE WITNESS: No, this was the first major
22 paper I submitted.

23 MR. LAWLOR: I see. And have you been
24 able to give a major paper on the same subject at a
25 subsequent time?

26 THE WITNESS: I have discussed this
27 matter from time to time in other contexts.

28 MR. LAWLOR: I wonder if you would supply
29 to the Committee a list of your itinerary abroad --
30 not necessarily a list of the papers, but maybe that

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1 would be interesting too -- but a list of the times that
2 you have been performing this ambassadorial function on
3 behalf of the Board.

4 THE WITNESS: It is really not an ambass-
5 adorial function. I never go as an ambassador, I always
6 go as a person who is taking part. The ambassadorial
7 function is not my function, sir.

8 MR. LAWLOR: My point, Mr. Chairman, is
9 it seems to me looking at the record thus far that Mr.
10 Legge's predelictions are first of all with respect to
11 internal administration and, secondly, as an emissary of
12 that goodwill and/the adjudicative function has suffered.
13 Would you care to comment on that?

14 THE WITNESS: Yes. The adjudicative
15 function has certainly not suffered. My predeliction
16 is to the adjudication rather than to administration,
17 but the job as the Chairman as such is that the weight
18 of the administration, if you describe it as such, comes
19 to the Chairman for the reasons that I have given. The
20 question of the teaching function of the Board is two
21 or threefold. We have innumerable visitors to the Board
22 which is one function, and the last two that I met are
23 two young gentlemen from Tanzania who are -- I am sorry,
24 from Zambia, who are now with us for four months. We
25 have innumerable visitors because people seem to think
26 that there is something in this administration. So there
27 is that.

28 And the second thing that I do along with
29 many other people is that I do try to give papers about
30 what the Board does, and I give them in three areas: I

1 give general papers about safety, about administration
2 of the Board which is purely / compensation side of it
3 with safety. I do not give technical papers in rehabili-
4 tation or in safety, and I do do papers in the medical-
5 legal side of it.

6 MR. LAWLOR: But these are ongoing things
7 are they not, Mr. Chairman?

8 THE WITNESS: Yes, they are.

9 MR. LAWLOR: And you, in the next few years
10 as you would envisage it, you will have to continue as
11 you see your job to make these forays abroad, to give
12 papers. You consider that a vital and valuable function
13 of the Board, don't you?

14 THE WITNESS: I consider that certain
15 selective ones are vital and valuable. I consider that
16 many of them simply can't be accommodated because of
17 pressures of time. I would think that selectively a lot
18 of them are very valuable and I think that the question
19 of visits is where if one is left /selective we have
20 to receive I think almost every visitor that wants to
21 come.

22 MR. LAWLOR: Then would you agree with
23 me that in terms of the weight of internal administration is
24 something that is becoming less onerous I suspect. You are a growing
25 organization and your claims mount from year to year.

26 THE WITNESS: No, they are stabilized at
27 the moment because of the industrial setback.

28 MR. LAWLOR: I consider that somewhat
29 fortuitous or a rather peculiar thing that your
30 stabilization happens to take place right at the time

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1 when you are being accused of neglecting certain vital
2 functions, and your offering of the palm leaf at this
3 stage saying that I now intend to turn my mind to the
4 other things, which on your own evidence ---

5 THE WITNESS: I don't say that.

6 MR. LAWLOR: Let me finish, on your own
7 evidence is absolutely primary to the operation of the
8 Board is something that is now coming -- it is going to
9 come to be. I suggest to you that your internal
10 administration is an ongoing process, that your
11 consultation with personnel and with the other heads
12 is a very time consuming and demanding chore.

13 THE WITNESS: Yes, of course it is.

14 MR. LAWLOR: I am suggesting here ---

15 THE WITNESS: It is all consultation
16 time ---

17 MR. LAWLOR: Would you agree with me that
18 the Board is structured badly, that the Chairman of the
19 Board ought to only have minor adjudicative functions,
20 that your job is primarily in the broadest sense
21 administrative and you performed it on that basis?

22 THE WITNESS: No, sir, I haven't performed
23 it on that basis nor would I agree that you can put in
24 the scales a competing demands for time and talent.
25 I don't care which particular person on the Board that
26 you are discussing, he will always have to decide what
27 it is he can do best and the more the responsibility,
28 the more imperative the decision is. I suggest that the
29 leader of the party for example has to make much sharper
30 decisions as to the time use, that he makes than the

1 ordinary member of a party simply because there is more
2 competition for his time, and his thoughts. There isn't
3 in my opinion any way that the adjudicative function
4 could in the present organization of the Board be taken
5 beyond the compass of the Chairman, nor could the adminis-
6 tration be hived off to somebody else. But that isn't
7 to say that the corporate management and the corporate
8 adjudication doesn't always remain as the prime responsi-
9 bility. So within the circle of what the trio do, the
10 Commissioners, there is a waiting as to the competition
11 that is engaged for their time. For example, I did a
12 minor paper for the Ontario Federation of Labour at the
13 annual seminar for the Ontario Federation in March and
14 Mr. Hamilton who is an illustrious labour leader did a
15 very major paper for the Ontario Federation of Labour.
16 So he obviously in that case must have spent a great
17 deal of time making that paper, and I spent relatively
18 little time. He spent more time at the two day seminar
19 than I did because that is one of his areas of responsibility.
20 So without in any way denying the force , of the argument
21 that there is a different weighting of responsibility, I
22 would say to you in a very friendly way that the word
23 "absence from adjudication" and the opinion of their
24 election of adjudicative functions. I would have to
25 resist quite sincerely, I just don't think there is
26 anything in it.

27 MR. LAWLOR: You will agree that your
28 record up until this time has disclosed a relative
29 the
30 absence from/adjudicative process, and if you want to
use your own language, "Dereliction in this particular

1 regard."

2 THE WITNESS: No, I would certainly not
3 agree. I would say that other Commissioners in the
4 years that we discussed so fully on other occasions
5 dealt with the adjudication by choice, by agreement,
6 so that I could in fact do other things.

7 MR. LAWLOR: And by your own wish ---

8 THE WITNESS: By agreement, sir.

9 MR. LAWLOR: It seems to me that with
10 your lectures and your seminars, with your public
11 relations both internal to the Board and external therto
12 that with the ten departments of functional duties who
13 have to report to you directly, that you have ---

14 THE WITNESS: No, sir, Mr. MacDonald.

15 MR. LAWLOR: Mr. MacDonald reports to you?

16 THE WITNESS: And he reports to the others
17 too.

18 MR. LAWLOR: And you are in contact with
19 your personnel officers and you know what goes on in the
20 trust fund and that it seems unreasonable to think that
21 you or any other future Chairman of that Board can per-
22 form adjudicative functions which seems to me absolutely
23 primary in terms of the Board's operation.

24 THE WITNESS: My opinion, sir, is still
25 the same with the organization as it is, that the Chairm
26 any Chairman, could attend between 50 and 75% of the
27 adjudications in a year and it might settle out about
28 60, depending on the year, but in that bracket and I
29 think that that is very feasible and it is my sincere
30 opinion.

1 MR. LAWLOR: Did you make any arrangements
2 with the Minister, whatever Minister of Labour it
3 happened to be sitting at the time, that you would --
4 that you preferred to report to him yourself directly
5 and that the other members of the Board or other people
6 on your staff report through you in this regard?

7 THE WITNESS: This is a very difficult
8 question and one which I will try to deal with candidly.
9 You can understand the sensitivity of the problem.

10 The Minister, I think, must have access
11 to the three members of the Board, either jointly or
12 severally. I think that the obverse of that is, sir,
13 that any Commissioner, including the Chairman, must be
14 able to approach the Minister of the day personally if
15 he wishes to. I think that the Board must be able to
16 approach the Minister through the Chairman or together.
17 Now all of those things have been done. I will say
18 to you if I must, and I gather I must, because it is
19 a very sensitive subject -- I will say to you that at
20 one time I saw difficulty in principal officers reporting
21 to a Minister without going through the Chairman. The
22 difficulty which I apprehended, and perhaps unnecessarily
23 was, that sometimes a principal officer misunderstood
24 or acting in a way that might possibly have been
25 contrued -- might have been construed as a difference
26 between him and the Board and my simplistic view at
27 the time was that how can the Board be responsible if
28 somebody else reports instead of the Board through the
29 Chairman or the Board as a corporation reporting the
30 practice has not been as I ^{feared} at all. I think all

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1 Ministers of the four that I have had the honour to serve
2 with, the four Ministers have said, and I think rightly
3 now, that in the absence of the Chairman the Vice-Chairman
4 is the Chairman of the Board, therefore, the prime link
5 with the Board will be through the Chairman or the Vice-
6 Chairman. If the Minister wishes to deal with the Board
7 as a corporation then he will summon them. If the Minister
8 wishes to deal through the General Manager called the
9 Executive Manager, through the Executive Manager or the
10 Assistant Executive Manager, or, say, through Dr. Bailey
11 Powell on a purely medical matter, as a matter of
12 convenience to him, the Minister, and without any idea of
13 slight to the Board but simply a question of in the
14 Minister's mind as a matter of directness of access and
15 of efficiency accruing therefrom, that all of these
16 Ministers had said, "This is what we will do," and I have
17 not opposed this, but I confided in my apprehensions at
18 the time it was first reached.

19 THE CHAIRMAN: Mr. Lawlor, if you have
20 further questions we will carry on this afternoon.

21 We are adjourned until 3:00 o'clock.

22 MR. DONNELLY: Mr. Chairman, if it was
23 possible I would like to accommodate those witnesses that
24 I brought in on subpoena and we rather indicated earlier
25 this morning that I am to interview them. Is it possible
26 excuse them until some other date, or have you given any
27 thought to that?

28 THE CHAIRMAN: Which witnesses are we
29 speaking about?

30 MR. DONNELLY: These are these 10 or 12

7/9

1 that I named this morning. Apart from that, can we
2 accommodate these others?

3 MR. DEANS: Yes.

4 MR. DONNELLY: Next week some day.

5 --- Upon adjourning at 12:00 noon.
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1 --- Upon resuming at 3:20 p.m.

2 THE CHAIRMAN: I will call this meeting
3 to order.

4 Counsel, did you wish to make a statement
5 at this time outlining what you feel we will be doing
6 in -- today, the balance of today and tomorrow morning?

7 MR. DONNELLY: Mr. Chairman, may I speak
8 to the Committee about the witnesses whose names I read
9 this morning? At your direction I asked Mr. Dowding to
10 come forward and he is present here now and he has
11 indicated to me that he would prefer to seek the advice
12 of counsel before giving evidence and certain of the
13 other persons in that category have also indicated the
14 same thing. I am sure we agree that they should have
15 that opportunity and is it possible now that perhaps
16 those persons might be excused until Thursday morning?

17 THE CHAIRMAN: Mr. Deans?

18 MR. DEANS: Just before we go on, Mr.
19 Chairman, I recall someone mentioning this morning that
20 Mr. Dowding could not be here on Thursday; correct?

21 Perhaps in the case of Mr. Dowding he
22 could be scheduled for tomorrow afternoon if that would
23 be satisfactory?

24 MR. DONNELLY: If that gives him an
25 opportunity, does it?

26 MR. LEWIS: I would think so.

27 MR. DOWDING: Sorry, sir, I can't hear
28 you.

29 THE CHAIRMAN: The question is, would you
30 be available or be ready tomorrow afternoon to give

1 testimony?

2 MR. DOWDING: I would rather wait for
3 Thursday if I may.

4 THE CHAIRMAN: Someone said you may not
5 be available Thursday.

6 MR. DOWDING: I could manage that.

7 THE CHAIRMAN: You will be available
8 Thursday? Fine.

9 We will continue where we left off at
10 noon and at that time, Mr. Lawlor, did you complete your
11 questioning?

12 MR. LAWLOR: Not quite yet, Mr. Chairman,
13 thank you.

14 BRUCE LEGGE, Resumed:

15 MR. LAWLOR: Do you, Mr. Chairman, part-
16 icipate in the drafting, setting up the terms of your
17 annual report to the Legislature?

18 THE WITNESS: Not in the drafting. The
19 Board considers the final form.

20 MR. LAWLOR: I noticed down through the
21 years since 1965 that there is precious little in those
22 reports about the restructuring that we have heard so
23 much about during the Committee Hearings, very little
24 mention, if any at all, of what took place internally
25 and what was taking place in the report to the Legislature.
26 Would you agree with that?

27 THE WITNESS: I don't think that the
28 annual report is the place where that sort of discussion
29 takes place, but rather, Mr. Lawlor, in the committees
30 of the Legislature before which we appear every year.

1 MR. LAWLOR: Well I mean there is no point
2 in arguing. I would have thought the annual report might
3 have been some indication of internal high level personnel
4 changes in the restructuring. My question flowing from
5 that would be did you consider that matter peculiarly
6 within the competence of your office and that of the
7 Board itself and therefore not properly a matter for
8 legislative report?

9 THE WITNESS: I think almost anything is
10 a matter for legislative report and the best help I can
11 give to you is that the Board and its principal people
12 appear several times annually before committees of the
13 House and all of this is known and discussed then.

14 MR. LAWLOR: I take issue -- I don't
15 remember and I have attended many in the past four or
16 five years of those Workmen's Compensation Boards ever
17 hearing a discussion on the rather elaborate restructuring
18 that took place. Do you actually recall such -- are
19 you giving a deliniation of what was taking place in this
20 particular regard?

21 THE WITNESS: I recall questions about,
22 oh, the claims line of authority, / about the rehabilitation
23 and about the assessing of companies which is through
24 the finance and the various principal officers have many
25 times been introduced in their capacity as the director
26 of safety and as the /director of finance, as the director of medical services
27 and it presupposed to me that the Committee were satisfied
28 that they knew what this man was about and they were
29 certainly never reluctant to ask him

30 MR. LAWLOR: Again I have a comment and it

1 is simply this, you presume too much of committees, they
2 take it as calm as far as the internal structure is
3 concerned and the going forward in that particular regard
4 I would have thought that it lay beyond the Committee in
5 the sense that it was internal to the organization not
6 necessarily known to them and never given any specific
7 revelation.

8 However, I must take a moment if I may to
9 try to define a little bit your relations down through
10 the years with Mr. Cauley. Would it be minimal for me
11 to say that they are two very different kinds of men
12 to say the least and that there was some clash of
13 personalities between you?

14 THE WITNESS: No, I think I said before on
15 various occasions that there were no clashes of person-
16 alities during Mr. Cauley's tenure which I find rather
17 surprising in view of what has recently transpired.

18 MR. LAWLOR: On all occasions when you
19 were sitting in with Mr. Cauley on an adjudicative hear-
20 ing you found yourself in fair accommodation with him as
21 to reaching decisions?

22 THE WITNESS: Well, I think I pointed out
23 before, sir, that Mr. Cauley was a good adjudicator and
24 I can't ever recall a single incident when we differed as
25 to how a case should be decided.

26 MR. LAWLOR: Did an incident set out in
27 his testimony, an incident where he made overtures or at
28 least made some rather wry remarks to your secretary while
29 you were in Europe on a particular occasion contained at
30 page 15 of his testimony -- I think it is April 5th --

"Now there is one hearing - in fact,
at one time I went in to his secret-
ary and I said, 'It is about time you
got that boss of yours in here we have
another hearing. I am getting sick
and tired of being a hearing officer.
I am supposed to be the vice-chair-
man.' And she said, 'He can't come;
he is in Europe.'"

Did that come to your attention subsequently?

MR. AUSTIN: What page is that?

MR. LAWLOR: Page 15.

MR. DONNELLY: About three-quarters of
the way down.

THE WITNESS: No, it never came to my
attention because Mr. Cauley always knew where I was.

MR. LAWLOR: I mean your secretary didn't
point back to you the umbridge Mr. Cauley had taken at
that occasion?

THE WITNESS: No, she is not much of a
tale bearer.

MR. LAWLOR: One other thing here: Do you
think -- is it your position that the business of re-
formulating regulations with respect to senior staff is
something inherent within the competence of the Board?

THE WITNESS: I think so, but I suppose
if you could direct me to what it is you have in mind I
can answer more broadly.

MR. LAWLOR: Well, it may be that you
feel that no regulation or explicit ⁱⁿ conjunctive set forth

1 in writing ---

2 THE WITNESS: Oh, come, sir. I am a public
3 servant both publicly and provincially now for 22 years.
4 I am a believer in regulations.

5 MR. LAWLOR: Well then, the question has
6 been asked several times and I shall ask it again: What
7 regulation were you following in the Cauley case?

8 THE WITNESS: The regulation of fairness
9 and equity.

10 MR. LAWLOR: But you are a believer in
11 regulations and by that I would take it to mean that a
12 formal written document giving you guidance and legally
13 applicable to all was before you or in your mind and not
14 matters of discretion or matters made out of whole air
15 in terms of fairness or anything else and you can't have
16 it both ways.

17 THE WITNESS: I think for the Commission,
18 sir, that as I have tried to honestly and candidly explain,
19 the benefits that went to Mr. Cauley were basically equit-
20 able but that they were in conformity with the practice
21 which was not then in regulation form if I recall correctly,
22 but the practice that pertained for Dr. Steele and for Mr.
23 Ledsham. ---

24 MR. LAWLOR: Final question: Did you inform
25 Dr. Steele by letter otherwise as to his rights and privi-
26 leges after he left?

27 THE WITNESS: I don't recall. I think we
28 might be able to check it. I don't recall the technique
29 of informing Dr. Steele, but he was certainly informed.

30 MR. LAWLOR: That is all I have.

1 MR. DEANS: Mr. Lawlor, may I -- I want to
2 ask a question.

3 THE CHAIRMAN: Mr. Deans?

4 MR. DEANS: Mr. Legge, you said that it was
5 in uniformity with the method of dealing with retirement
6 in the case of Dr. Steele, but Mr. Cauley -- the circum-
7 stances are Mr. Cauley from what I can see looking at
8 the Order of the Board are entirely different, entirely
9 different. Now Dr. Steele's order, and I read it to you,
10 sir, it says: "The Board accepts the resignation

11 of Dr. E.C. Steele ..."

12 It is Exhibit No. 50 I believe --- "...to be effective
13 August 31st, 1968 and directs that he
14 be placed on superannuation effective
15 September 1st..."

16 the next day, "1968." They then hired him for consulting
17 services which you agree with me were not exactly up to
18 your expectations. But in the case of Mr. Cauley this
19 wasn't at all what happened, nothing even similar. Mr.
20 Cauley had an entirely different setup all together. It
21 said, "Mr. Cauley was permitted to use
22 existing sick leave and holiday
23 credits plus a grant of an addition-
24 al 25 days to allow payment of full
25 salary until his normal retirement
26 date of August 19th, 1971."

27
28
29 That is also an Exhibit under Confidential Order of
30 the Board. Now the circumstances surrounding the order

1 of Mr. Cauley's are not even remotely similar to those
2 surrounding the retirement of Dr. Steele. Now how can
3 you say that you follow the practice when that obviously
4 isn't the practice according to the documents that you
5 place before us?

6 THE WITNESS: I don't see the discrepancy.

7 MR. DEANS: You don't see the discrepancy?
8 You don't see a discrepancy between accepting the
9 resignation of a person on August 31st, 1968 and placing
10 him on superannuation September 1st and accepting the
11 resignation of a man in May and allowing him to remain
12 on salary until some year and a half later in 1971? You
13 don't see the discrepancy between those two things?

14 THE WITNESS: I can see some flaws in
15 the drafting which if I had drafted I probably wouldn't
16 have approved.

17 MR. DEANS: You signed it, sir.

18 THE WITNESS: I did and I am responsible.
19 But of course the Board can't accept the resignation for
20 one thing.

21 MR. DEANS: But the Board did accept
22 the resignation, it says so.

23 THE WITNESS: It says so, but of course
24 the Board can't accept the resignation.

25 MR. DEANS: In other words, the orders
26 aren't worth the paper they are written on? I mean it
27 is a pretty slipshod operation, there was no practice
28 in actual fact. There was no practice at all and you
29 wrote orders to satisfy the particular whim of the day,
30 that is pretty evident by the fact that you refer to

1 the practice or the procedures of the past and refer to
2 two cases which are not in the slightest way similar.

3 THE WITNESS: The practice that I was try-
4 ing to describe to you, sir, was the fact that in re-
5 lation to the Commissioners the criteria was one of
6 fairness in the situation insofar as very experienced
7 and very creditable service of these gentlemen was
8 concerned and nothing more and nothing less. It seems
9 to me, sir, that the Order of the Board in both instances
10 reflects that.

11 MR. DEANS: Well, the Order of the Board
12 in the incident of Dr. Steele reflects simply that the
13 Board has recognized that he resigned on August 31st and
14 is receiving superannuation effective the next day,
15 September the 1st. It then goes on to deal with some-
16 thing called an honorarium for services. But in the
17 case of Mr. Cauley it is an entirely different situation
18 -- in the case of Dr. Steele it appears to be on the
19 surface a routine resignation and that some arrangement
20 was being made to compensate him for skills that he was
21 going to make available to the Board on an honorarium
22 basis. Now that is for consulting purposes and that's
23 one matter. Now his resignation was clearly a resignation,
24 he had resigned -- he received superannuation in accord-
25 ance, I presume, with the terms set out in the booklet
26 dealing with the superannuation plan that I quoted from
27 t his morning. In the case of Mr. Cauley it is an entire-
28 ly different set of circumstances, entirely different,
29 and there is no precedent for this that I can find and I
30 ask to be shown where in the Board history that has ever

1 been dealt with in this way, where in any other time on
2 the Board you have ever dealt with the severence of an
3 employee or a Board member in the way that Mr. Cauley's
4 was dealt with.

1 THE WITNESS: The history of Dr. Steele's
2 withdrawal from the Board, Mr. Deans, Dr. Steele left
3 work on the 8th of January, 1968 and received sick leave
4 and vacation credits up to the 31st of August, 1968.

5 MR. DEANS: When did he retire?

6 THE WITNESS: He was placed on super-
7 annuation pension on the 31st -- well, in effect, the
8 1st of September, 1968, having used up his sick leave
9 and vacation credits from the 8th of January to the
10 31st of August.

11 MR. DEANS: But you agree with me that
12 he didn't receive any credits after he retired?

13 THE WITNESS: He received the use of the
14 credits, if you want to put it in that kind of term,
15 from the time he left work on the 8th of January until
16 they were all exhausted on the 31st of August, 1968.

17 MR. DEANS: But he didn't retire until
18 the 31st of August, 1968. Mr. Cauley retired on the
19 1st of May and received his credits and benefits until
20 August of 1971. He retired in May of 1969 and received
21 credit and payment until August of 1971. In the case of
22 Dr. Steele, what he got was in fact he was able to use
23 the sick leave credits that he had accumulated, presumably
24 because he was sick.

25 THE WITNESS: Well he went around the
26 world in that period. He visited his son who was in --
27 if I recall correctly, who was doing neurology in Thailand.

28 MR. DEANS: So at that time the policy
29 of the Board was just to allow ^{people} / to take off whether
30 they were sick or not, just use up their time?

1 THE WITNESS: No, I think it has been said
2 and I thought you accepted this that Dr. Steele has a
3 very serious disease called Burger's disease but I think
4 Dr. Steele was entitled to use up his leave and vacation
5 credits from the 8th of January to the 31st of August
6 on the doctrine of fairness that I tried to talk to you
7 about for Messrs. Steele and Cauley.

8 MR. DEANS: Well, I say to you, sir, I
9 fail to see, aside from your view of fair play which I
10 think is commendable, but I fail to see the similarity
11 in the terms of the resignation of the two people. In
12 the one instance, Dr. Steele used his sick credits while
13 still an employee of the Board, when he had this Burger's
14 disease which I am not -- in all fairness, I am not
15 conversant with but I presume that he felt that he could
16 not continue with his active service due to this illness.
17 I can only make that presumption, otherwise the Board
18 is putting itself in a very unusual circumstance.

19 THE WITNESS: Dr. Steele discussed it
20 with both Mr. Cauley and me and with the minister of the
21 day before he left and his position was that in all
22 probability his statistical life expectancy was less
23 than most peoples', that he had worked very hard for the
24 Board, that he did have this diagnosis, that his son
25 was in Thailand, that he did want to do this disposition
26 of his accumulated sick/vacation and credits and it was
27 agreed by the Minister and by the Board that this is what
28 would happen.

29 MR. DEANS: I am not quarrelling, I think
30 that that is properly legal. What worries me is that in

1 the case of Mr. Cauley, this is not what happened. In
2 the case of Mr. Cauley, he resigned from the Board in
3 May -- on May 1st -- and continued to draw from accumulated
4 sick leave credits and vacation pay for a period of a year
5 and some months -- two years and some months, 1969, '70
6 and '71, for two years, over two years, and that in fact
7 all that Mr. Cauley was entitled to at the time that he
8 left the Board in May of 1970 -- in 1969, was half of
9 his accumulated sick leave credits plus his vacation
10 time. But that is what any other employee leaving the
11 Board, resigning from the Board would have received had
12 they resigned, any other employee resigning from the
13 Board would have got 50% of what he had in his sick bank
14 plus his vacation credits and he would then have been
15 superannuated; is that true?

16 THE CHAIRMAN: Have you further answers
17 to Mr. Deans, Mr. Legge?

18 THE WITNESS: I really haven't.

19 MR. DEANS: Is it true what I asked?

20 THE WITNESS: I said this -- I can't give
21 you the categorical answer. I think that you have to
22 ask Mr. Betts or Mr. MacDonald as to what happens in
23 every single case because the Board has no knowledge.

24 May I say, though, that I suppose your
25 problem would have been solved if the Order-in-Council
26 had said that Mr. Cauley retired with effect the 19th
27 of August, 1971.

28 MR. DEANS: That's right.

29 THE CHAIRMAN: But you see, the drafting
30 is something ---

1 MR. DEANS: But he didn't, you see,
2 resign.

3 THE WITNESS: It is beyond my ken.

4 MR. DEANS: No, it isn't. Mr. Cauley
5 resigned on May 1st.

6 THE WITNESS: Now I can't really do a
7 single Order-in-Council.

8 THE CHAIRMAN: Mr. Lawlor, did you
9 complete your questioning?

10 MR. LAWLOR: Yes.

11 THE CHAIRMAN: Mr. Lewis?

12 MR. LEWIS: Mr. Legge, like some other
13 members of the Committee, I am still frankly mystified,
14 sir, at the whole nature of the separation with Mr. Cauley,
15 even more now in the light of what Mr. Deans just
16 elicited from you. I thought at first there might be
17 some tie, however tenuous, by way of parallel with the
18 situation for Dr. Steele, but clearly that has now been
19 demonstrably discarded, that's not true, and it leaves
20 the termination of Mr. Cauley in an absolutely separate
21 and special category. Can I understand from you,
22 Mr. Legge, by way of the normal separations from the
23 Board, is it not policy that the total sick leave
24 accumulation would be six months? Mr. Deans used the
25 figure 50% of the sick leave bank. I understood it
26 was a six months total entitlement.

27 THE WITNESS: There is a distinction here
28 that I am not personally familiar with that has to do
29 with the early retirement as opposed to normal severance
30 from the Board and I can only say to you that I would

1 have to divert to someone whose specialty this is. There
2 are such people in the Board.

3 MR. LEWIS: Mr. Legge, one of the reasons
4 you haven't been able to attend as many adjudicative
5 sessions as you would like is because of your extended
6 involvement with the administrative minutiae of the
7 Board. You appear to have an almost cosmic grasp of
8 every single aspect of Board administrative policy, save
9 the one under discussion, the details surrounding early
10 retirement, and it is a little perplexing to me, sir,
11 how your knowledge of every other aspect of the Board is
12 so extensive but this one area which has been a matter
13 for public debate now for a considerable number of weeks
14 when you have surely had an opportunity to inform your-
15 self and one would have thought, considering what was
16 at stake, you would have informed yourself, you are
17 unable to answer elemental questions and they are ele-
18 mental, like how much sick leave is an employee of the
19 Board entitled to under the early retirement plan, 50%
20 of sick bank or six months accumulative.

21 Do you not see, Mr. Legge, that if you
22 are not able to answer for me that simple question, then
23 it throws into question your assertion of how much time,
24 energy, thought, that you have had to give to the
25 administrative governments of the Board over the last
26 seven years? I mean, is that not a fair question to ask
27 you, what is this simple rule under early retirement?

28 THE WITNESS: It may be a fair question
29 and I have dealt with the principle of the early
30 retirement several times which really is all that I am

1 technically competent to deal with, nor have I ever
2 asserted that I was a master of the minutiae of the Board
3 because clearly I am not and clearly no one person is.
4 And there is a tremendous non sequitur in the assertion
5 that because I cannot tell you of a volume of minutiae
6 that I have not been thoroughly engaged in the working
7 with the administration of the Board because that, I
8 assure you, I haven't.

9 MR. LEWIS: Well, my non sequitur or
10 alleged non sequitur aside, are you able in the
11 events of the last few weeks, to answer for me this
12 question: do you know, on the basis of early retirement
13 that to which an employee of the Board is normally
14 entitled by way of sick leave credits?

15 THE WITNESS: It is my belief that on
16 early retirement of the Board of senior people, the 50
17 that are in the discretion of Mr. MacDonald that they are
18 in fact entitled to an accumulation of sick leave and
19 holiday credits.

20 MR. LEWIS: Without limit?

21 THE WITNESS: I believe so.

22 MR. LEWIS: Without limit?

23 THE WITNESS: I believe so. I still don't
24 know.

25 MR. LEWIS: You still don't know?

26 You didn't know, I take it then, when you
27 signed this special Board order for Mr. Cauley? If you
28 don't know now, I presume you didn't know then?

29 THE WITNESS: I note in the case of
30 Mr. Cauley that he was to receive, by agreement with the

1 Board and the Minister, he was to receive his existing
2 sick and holiday credit.

3 MR. LEWIS: But you agree that it is a
4 special case -- I think those were the words used back
5 on April 5th by Mr. MacDonald and you had implied that
6 or indeed asserted it today, then consistent with what
7 you call fairness and equity?

8 THE WITNESS: I also believe that fairness
9 and equity were accorded to Dr. Steele who received his
10 sick leave and vacation credits.

11 MR. LEWIS: Well, Mr. Legge, this principle
12 of fairness and equity which gives a special status to
13 Board members, do you not think that it should extend
14 equally to employees of the Board? You will agree that
15 there are special provisions made on an ad hoc
16 basis based on the existing feelings of fairness and
17 equity for those members of the Board who separated. What
18 about the employees of the Board? What is so qualitatively
19 different in the contribution to the common wheel on the
20 part of Jack Cauley which separates him out from a person
21 like Florence / Bancroft or someone else, from a person who
22 has worked 40 years with the Board?

23 THE WITNESS: My opinion would be, sir,
24 that there would be nothing quantitatively or qualitatively
25 different and I would hope that the same provisions applied
26 to Miss Bancroft and that she was able to use, if she
27 was on early retirement, her collected sick leave and
28 holiday credits.

29 MR. LEWIS: There would have been no offer
30 to Miss Bancroft based on her contribution to the Board

1 of a consultancy, I suppose?

2 THE WITNESS: It had never been proposed
3 by anyone, no.

4 MR. LEWIS: Is it possible for a
5 commissioner to retire at age 60 after 20 years service?

6 THE WITNESS: A commissioner?

7 MR. LEWIS: A member of the Board, one of
8 the three men.

9 THE WITNESS: I think a commissioner can
10 retire at any time because he serves at pleasure and the
11 chairman serves in lumps of five years.

12 MR. LEWIS: Have you, Mr. Legge, been
13 able to have adduced what Mr. Poole receives per diem
14 or was that given to the Committee? I think it was asked
15 of Mr. Legge by the Committee last Thursday.

16 THE WITNESS: It is coming in through
17 Mr. Betts or Mr. MacDonald, sir.

18 MR. LEWIS: It is not available so that
19 you could ---

20 THE WITNESS: I think it probably is
21 available but I don't have it.

22 MR. LEWIS: Mr. Legge, the matter of the
23 consultancy ---

24 THE WITNESS: Yes, sir.

25 MR. LEWIS: --- for Mr. Cauley, you said
26 at the time that the consultancy was not given because,
27 and I quote "for two reasons: The first is that there
28 is no specific need that has come to the Board's
29 attention and the second one is that I think with the
30 known and now publicized attitudes of Mr. Cauley to the

1 Board that a harmonious consultancy might be somewhat
2 difficult." On the first point, in view of all the
3 areas that you indicated could be improved within the
4 Board and in terms of what Mr. Hamilton indicated might
5 be improved within the Board, surely a man, from
6 rehabilitation to the processing of claims to the making
7 of public speeches, surely with some ingenuity, given his
8 years of experience an area could have appropriately
9 been found for Mr. Cauley -- not found in a sense that he
10 needed it but found in a sense that it was legitimate.

11 THE WITNESS: In the sense that it was
12 legitimate, it could certainly not have been done in
13 relation to rehabilitation nor in making public speeches.
14 If he had kept current in the claims structure it is
15 conceivable that something might have been done there.
16 But given the premise that the hearing of appeals was
17 somehow noxious, it would seem that there would be
18 very little in that area.

1 And as to the initial application the computer is more
involved
2 and more / which, frankly, is beyond all the
3 Commissioners.

4 MR. LEWIS: But your repetitive assertion
5 of Mr. Cauley's tremendous contribution to the Board
6 would seem to belie your present assertion that he can
7 make no contribution to it as a consultant.

8 THE WITNESS: I really see no conflict.
9 Mr. Cauley's skills were in the deciding of cases and
10 in the dealing with labour and we now have Mr. Hamilton
11 to deal with labour, and the function of Director of
12 Adjudication is very clearly established. As to the
13 ingenuity, I guess I am against a make work program.

14 MR. LEWIS: Yes, so am I, and I think that
15 is why Mr. Deans asked the question about Dr. Steele which
16 can be said to fall into that category. It didn't stop
17 the Board from providing a \$9500.00 consultancy for
18 Dr. Steele, however. It may be, Mr. Chairman, through
19 you, that there were good reasons for not hiring Jack
20 Cauley, but it would surely be very hard to argue that
21 one of them was his inability to do a consultancy of any
22 kind for the Board. That really would be quite remarkable;
23 it would suggest that the Board kept Mr. Cauley on for
24 25 years doing tasks of such defined and parochial nature
25 as to render him obsolete immediately. Again that may
26 be true.

27 THE WITNESS: No, I don't -- with respect,
28 sir, I don't really think that he was rendered obsolete
29 immediately, and I think he need not ever have been
30 obsolete, but I think that the concept of having hearings

1 where people see the people deciding the cases, where
2 reasons are given and this sort of thing, if you can't
3 accept that it is very difficult to know the area of
4 adjudication that you could.

5 MR. LEWIS: But come on, Mr. Legge, you
6 the
7 signed / Board order which said that he could be a
8 consultant for one year. You knew in 1969 that he
9 differed with you on the question of the claims. Clearly
10 therefore in your mind, assuming the order was signed
11 in good faith, you must have felt ---

12 THE WITNESS: You assume that.

13 MR. LEWIS: You assumed / would be a role for
14 there
15 a consultant with Mr. Cauley. What changed your mind
16 between then and now?

17 THE WITNESS: I think what was in my
18 mind then as now was that at the end of that period,
19 if there was something to do, that the Board would be
20 certainly more than willing to consider Mr. Cauley
21 doing it, if there were something to do.

22 MR. LEWIS: So this assertion of a
23 consultancy was contingent, although it certainly didn't
24 say it in the Board order, on something becoming
25 available. Was that why Mr. Cauley never found out
26 about his entitlement?

27 THE WITNESS: Of course I am not satisfied
28 that he didn't find out about it.

29 MR. LEWIS: You are not satisfied?

30 THE WITNESS: No.

31 MR. LEWIS: The Board admits that it
32 never informed Mr. Cauley, the Minister admits he never

1 informed Mr. Cauley, Mr. Cauley indicates with all his
2 correspondence that he never received a copy of the
3 Board order, you are still not satisfied. On what
4 basis, sir, are you not satisfied?

5 THE WITNESS: Well I think that Mr.
6 Cauley / could find out anything that he wanted to at the
7 Workmen's Compensation Board.

8 MR. LEWIS: Perhaps he was satisfied in
9 his meetings on May 5th and 12th that he had found out
10 what he wanted. That of course is conceivable.

11 THE WITNESS: I know not about those.

12 MR. LEWIS: May I ask you, Mr. Legge,
13 what did you mean that you couldn't give him the
14 consultancy because of his known and now publicized
15 attitudes of Mr. Cauley to the Board, a harmonious
16 consultancy might be somewhat difficult. You have,
17 Mr. Legge, spent a great deal of time attesting to your
18 harmonious relationship with Mr. Cauley, the absence of
19 any acrimony between the two of you, the fact that you
20 got along as well as two mortals have ever associated
21 over the entire life of the Board. What then would have
22 put in your mind the possibility that you couldn't have a
23 harmonious / consultancy? These views came out in the last three
24 weeks, not in August of 1971 when Mr. Cauley was
25 entitled to his consultancy as Dr. Steele had received
26 his.

27 THE WITNESS: I fail to follow the questions,
28 sir.

29 MR. LEWIS: I am saying that you implied
30 that you cannot pursue the consultancy because of Mr.

1 Cauley's antagonistic view to the Board. These views
2 were unknown at the time that the consultancy was to
3 come into effect. Why do you then use that as a reason?

4 THE WITNESS: Well, not entirely.

5 MR. LEWIS: Oh.

6 THE WITNESS: Not entirely unknown by
7 August of '71.

8 MR. LEWIS: You had contact between May
9 of 1969 and August of 1971?

10 THE WITNESS: I had no personal contact,
11 no.

12 MR. LEWIS: No personal contact?

13 THE WITNESS: No.

14 MR. LEWIS: Well, it is kind of interesting
15 because you indicated to me a few moments ago that you
16 thought that Mr. Cauley had kept in touch with claims,
17 etc., which implied that within that period of time he
18 hadn't; you said to me a few moments ago that if he had
19 inquired of his status he could have found out; that
20 implies ---

21 THE WITNESS: That is my opinion.

22 MR. LEWIS: That implies that he didn't.
23 May of 1967
24 What did you learn between/and August of '71 that would
25 lead you to believe that Mr. Cauley had suddenly been
26 under some strain?

27 THE WITNESS: The Board was informed from
28 time to time by Mr. MacDonald who has access to all
29 these contacts that Mr. Cauley was very disenchanted
30 with the Board after he left the Board.

MR. LEWIS: After he left the Board?

1 THE WITNESS: Yes.

2 MR. LEWIS: --- the disenchantment became
3 known to the Board after he left? You weren't aware of
4 it before then?

5 THE WITNESS: Well, I think I said in my
6 evidence that on two occasions ---

7 MR. LEWIS: Right, fair enough.

8 THE WITNESS: We had rather long talks,
9 one in his office and one in mine in which it was pretty
10 clear that he didn't really like the appeals system.

11 MR. LEWIS: But both very cordial as I
12 recall your description of those meetings?

13 THE WITNESS: Yes, that is flawless.

14 MR. LEWIS: Cordiality is almost always
15 flawless.

16 I wonder, Mr. Chairman, whether I can't
17 put the proposition that the whole atmosphere surrounding
18 the separation, the nature of the grant and then in
19 effect the withdrawal of the consultancy, the special
20 position of Cauley, all of this tends to leave in the
21 minds of members of the Committee -- or at least, I am
22 sorry, I shan't be presumptuous -- some of us who are
23 members of the House, a sense that in fact/this was a
24 way in dealing with Jack Cauley, maybe this was a way
25 of getting a fellow out of the way who one might expect
26 would grow to be disenchanted after the event.

27 I certainly have heard no plausible
28 explanation today -- perhaps Mr. Legge can give it to me
29 now -- of how after a man has formally resigned and an
30 Order-in-Council has been given that that man could continue to

1 accumulate sick leave credits. I mean after all of
2 the financial relationships, that caps them, and I
3 would assume that this was very congenial, this was
4 in the spirit of what the Chairman calls "fairness and
5 equity". Mr. Chairman, would you not agree that
6 fairness and equity is a principle, not a regulation,
7 a principle which most of us would like to see applied
8 to the public service, but that the public service
9 then requires regulations to embody the principle of
10 fairness and equity and that it is pretty tough to
11 have that principle applied on an ad hoc basis to
12 members of the Board as they resign or retire.

13 THE WITNESS: Fairness and equity I
14 agree is certainly principle. Regulations can certainly
15 embody fairness and equity. I am told by Mr. MacDonald
16 who is prepared to give evidence, or through Mr. Betts
17 who is prepared to give evidence, that there are of the
18 order of 50 people who have received benefits like unto
19 Mr. Cauley, on the doctrine of fairness and equity as
20 described in our regulations. Now whether those
21 regulations are right or wrong, they are the Board's
22 regulations and we believe them to be right, and we
23 believe them to be fair, and I really can't tell you
24 anything more, and Mr. Cauley got what the others have
25 got.

26 MR. LEWIS: Well, not one of the 50
27 members receive the equivalent of salary after
28 resignation? I feel that would be a pretty confident
29 assertion, would it not?

30 THE WITNESS: I am sorry, sir, I couldn't

1 hear you.

2 MR. LEWIS: After the date that they had
3 effectively separated from the Board they have not
4 received accumulated sick leave and vacation benefits,
5 that would be a fair supposition.

6 THE WITNESS: I guess after they had
7 physically left the Board.

8 MR. LEWIS: They have separated, they have
9 separated, they have left, they have retired, they are
10 on superannuation.

11 THE WITNESS: While they were using up
12 their accumulated holidays and sick leave I believe that
13 they continue to accumulate.

14 MR. DEANS: But they must still be employed?

15 MR. LEWIS: But they are employees of the
16 Board until they have separated, until they have retired?

17 THE WITNESS: That would be I suppose
18 their legal position.

19 MR. LEWIS: Legal positions are relatively
20 important. Mr. Cauley's legal position in an Order-in-
21 Council of January of 1970 retroactive to early 1969 was
22 a formal resignation, therefore the principle of equity
23 and fairness was stretched in Mr. Cauley's case to give
24 him a unique position in the history of the Board.

25 THE WITNESS: I would not like to agree
26 perhaps at that time, because of the length of the
27 accumulation of holidays and sick credits unitus
28 quantum and perhaps the first, second or third
29 of the line of these people, but I think, to be repetitious,
30 that in fairness and equity the same as for the others.

1 MR. LEWIS: I must say, you know, Mr.

2 Legge, I don't think you had any entitlement in the
3 world to do what you did around Mr. Cauley in the Order-
4 in-Council giving the resignation and the amount of
5 money that then flowed; that is just quite extraordinary.
6 I don't think the Board has a regulation, I don't think
7 the Board has the authority. I think the Board acted to
8 deal with a special case which may be stuck in the craw
9 a little, if I put it that way, but that obviously is
10 a subjective judgment which you reject.

11 THE WITNESS: Well, I would like to try to
12 understand your view on that because if you think the
13 question of according Mr. Cauley, his accumulative
14 sick and holiday benefits stuck in my craw which is all
15 that I can answer for, Mr. Lewis, it most certainly did
16 not stick in my craw for the reasons that I have tried to
17 discuss with you; that it seemed to me as with Dr.
18 Steele and now with several others -- many others in
19 fact -- that this was fair and in accordance with our
20 belief and in accordance with our practice, and there
21 was no question of me gagging on it at all whatever.

22 MR. LEWIS: No, I don't think you would
23 gag on giving him the money, quite the contrary. I think
24 your esophagus would never be clearer having given him all
25 this sick pay and vacation credit, but it may be that
26 at the Board there would be some feeling that they would
27 finally get Jack Cauley out of their hair. You see,
28 Mr. Legge, what really makes me curious ---

29 THE WITNESS: It is awfully hard for me,
30 sir, to comment because -- if we could pause on the

1 point that you wish me to comment on I would be happy to,
2 but, Mr. Chairman, it is very difficult with such an
3 oratorical flow.

4 MR. LEWIS: I understand. Well, other
5 members have made comments in passing.

6 THE WITNESS: I am not complaining, I am
7 trying to comprehend.

8 THE CHAIRMAN: Do you have any further
9 questions?

10 MR. LEWIS: Yes, I have, Mr. Chairman.

11 One of the questions is my amazement that
12 Mr. Legge was not aware of the undercurrents at the
13 Board through the years from '65 to '70, the very angry
14 and hostile feelings of Mr. Cauley throughout that period
15 of time. They were accumulated to me in 1966-67. I was
16 looking back through the Workmen's Compensation debates
17 in the Legislature and noted that as far back as 1966
18 I compared the Board to a military operation to the
19 Officers Club and told the Minister in the House with
20 you seated in front of him of the jokes and the cracks
21 that were made about the military authoritarianism that
22 characterized the Workmen's Compensation Board since the
23 change in principals in 1965.

24 And I am just surprised that the Chairman
25 of the Board wasn't aware of the sowing of disharmony
26 that was clearly evident to so many that were involved
27 with the Board over the years; that only the Chairman
28 seems not to have known of the unhappiness that existed.

29 Are you saying ---

30 MR. AUSTIN: May I ask whether that's a

1 question or a speech?

2 MR. LEWIS: You were never aware of it, Mr.
3 Chairman at all?

4 THE CHAIRMAN: What is your question?

5 MR. LEWIS: Were you ever aware of it at any
6 level?

7 THE WITNESS: I don't know what the if
8 refers to.

9 MR. LEWIS: The unhappiness Mr. Cauley was
10 expressing inside and outside the Board?

11 THE WITNESS: All I can tell you is what
12 I honestly told you before, that Mr. Cauley's conduct
13 toward me was cordial, that he never expressed any
14 personal unhappiness. He never talked in his whole life
15 at any time or place to me about what you described as
16 militarism. In his relationships with me they were
17 always polite and mine to him.

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1 MR. LEWIS: Mr. Chairman, as a question
2 one of stories
3 you would have been surprised by/the Globe and Mail/that
4 yet another of your co-Board members had visited the
5 Minister to express displeasure. I take it that that
6 similarly would have surprised you?

7 THE WITNESS: I am not too easily sur-
8 prised. I believe that people have differences of
9 opinion; I believe that the Minister should receive for -
10 mally whenever they want to go and the others before
11 have. The question of militarism has never been dis-
12 cussed with me by any minister or by any colleague.

13 MR. LEWIS: You must have been surprised
14 by the most recent Globe and Mail story without in any
15 way discussing its contents because you appear not to
16 have felt that the Board during your tenure was a place
17 of some dissatisfaction?

18 THE WITNESS: I think that there are always
19 dissatisfactions in any large organization or any party
20 or any faction or any grouping. I think my philosophy
21 is the task has to be achieved and I think what is
22 agreed to by consensus of those who have to make the
23 decisions is what is important; I think that dissatisfact-
24 ion should be minimized, it should be reduced as much
25 as possible; I think that that kind of thing can easily
26 be done. I think that most people dislike changes, I
27 think that it takes a while to accustom to different
28 methods and that sort of thing. The fact of the matter
29 is, of course, that I am quite powerless to bring about
30 a single change anywhere in the Board. My only authority
31 is that of a vote in the Board or by persuasion if you

1 like and I am prepared to discuss all of these things
2 with my colleagues at all times.

3 MR. LEWIS: I appreciate that. I think
4 the references are more to human relationships than they
5 are to administrative changes or procedures.

6 THE WITNESS: Human relationships are
7 very subjective things and people see you in one light
8 and me in another and who is to say what someone thinks
9 about anything. All that we are talking about really I
10 think is about the responsibility about the business of
11 looking after the injured workman which can only be done
12 on a very sophisticated system nowadays and I think that
13 it is done with a great deal of responsibility and I
14 think there are many differences of opinion; I think
15 that they are eventually reconciled; there certainly isn't
16 a consensus; and people do the best they can.

17 MR. LEWIS: You would agree that in
18 dealing with the injured workman which interests me rather
19 more than any of the other members which we have dis-
20 cussed that a sensitivity must necessarily pervade the
21 Board and if the Board feels at times unsatisfied,
22 volatile, upset for whatever reasons that this in-
23 evitably can base itself in the tone of the Board and
24 the way in which it deals with people; it is not such
25 a diversion that I am talking about, it is intrinsic
26 to the Board, that human relationships at the Board,
27 people don't compartmentalize themselves, they are con-
28 veyed surely then to the workman, the function.

29 THE WITNESS: I think first that
30 there is no use talking about human rights in theory if

1 you don't try to transpose them into practice. I think
2 that the question of sensitivity which is also reflected
3 in a sense of urgency -- you can be theoretically as
4 sensitive as you like about somebody else's problem and
5 everybody we deal with has a problem. But if you are
6 lazy or idle and don't translate this sensitivity into
7 a sense of urgency in the little area of responsibility
8 that we all have, that it would be disastrous because
9 the only way that you can help an injured workman is if
10 you are a doctor, if you are able to do some of this
11 sensitivity that you speak of in relation to your
12 practise as an expert. Or if you are a rehabilitation
13 person in getting him a job, the fact that he may be
14 very distraught and very difficult because of the problems
15 that beset him may require a little extra sensitivity
16 on the part of that person, and above all, it will re-
17 quire that he stay on the job with that man although it
18 may be a very distasteful kind of relationship and, no,
19 I don't think that any professional person, whether he
20 is a lawyer or a doctor or a therapist or a gymnast or
21 any kind of person that deals with the disabled, I don't
22 think that any of those professions would allow/^{their own}views as
23 to what should be going on in the Board, excepting your
24 premise that some of them may be disturbed, that they
25 would ever allow it to interfere with their work with
26 their man.

27 MR. LEWIS: Then they are not human, Mr.
28 Legge, then they are not human.

29
30 THE WITNESS. Well I hope they are human.

1 MR. LEWIS: Well I have never known, you
2 know, people to -- it suggests ---

3 THE WITNESS: The doctrine of prof-
4 ession that I am outlining to you because I would think ---

5 MR. LEWIS: Yes, you are.

6 THE WITNESS: --- I would think that the kind
7 professional activity that I would like to be a part of
8 that there has to be -- and I find it very exacting for
9 myself and I am sure you find it being a perfectionist
10 yourself that this standard of excellence that you aspire
11 to in your profession and which I aspire to in mine, that
12 these are very difficult matters that take a great deal
13 out of you and that if you don't want it for your pro-
14 fession then, you know, it is very hard to work for the
15 Workmen's Compensation Board.

16 MR. LEWIS: I agree. I have learned that
17 in the quest for perfection, Mr. Legge, one sometimes
18 loses sight of other relationships and other realities
19 so I have reduced my quest to a more modest level, helped
20 along by the results of last October.

21 MR. SINGER: I was going to ask you when
22 it started.

23 MR. LEWIS: I want to come back to your
24 assertion a little while ago that your predilection is
25 to adjudication, and when you talked about adjudication
26 and noted in your transcript or in the transcript I have
27 about the absence in adjudication claims you said, "This
28 was particularly unsatisfactory from
29 my point of view."

30 When you were asked whether there should be a two man

1 Board or a three man Board you said, "I think as to the
2 generality it is better to have
3 three experienced men than two just
4 in case there is a conflict as to the
5 way the evidence is viewed."

6 Time and again throughout your discussion and the questions
7 and answers with members and with counsel you asserted
8 the primacy of adjudication. Yet Mr. ---

9 THE WITNESS: It is a very important
10 function of the Board.

11 MR. LEWIS: Yes, I understand that.

12 THE WITNESS: But it is not like the
13 Prime Minister, it is not like primus inter parie, it is
14 one of the very important functions but one of many.

15 MR. LEWIS: But you gave to it a very
16 special status.

17 THE WITNESS: Because I like it.

18 MR. LEWIS: Because you like it?

19 But you said more than that.
20 You indicated that adjudication was the whole purpose
21 of the Board?

22 THE WITNESS: No, sir.

23 MR. LEWIS: Well, the primary purpose of
24 the Board?

25 THE WITNESS: No, sir.

26 MR. LEWIS: And I shall come back and
27 you said, "No single function is more
28 important..."

29 I am sure that I can find the quote.

30 THE WITNESS: I agree with that.

1 MR. LEWIS: Oh, I see.

2 THE WITNESS: No single function, sir, is
3 more important but there are many that are very important.

4 MR. LEWIS: No single function is more
5 important than adjudication but there are many equally
6 important?

7 THE WITNESS: Yes, sir. There are, for
8 example, if you are sick, the most important thing is
9 that you be treated at the Board. If you have a dispute
10 about how much money you should receive, you having been
11 cured to the best level that you can achieve, then at
12 that stage the question of adjudicating how much becomes
13 very important.

14 MR. LEWIS: All right. I am sorry I
15 interpreted your discussion of adjudication and your
16 reference to no more function being ^{more} important that you
17 gave it a certain primacy. You clearly give it a tremen-
18 dous significance?

19 THE WITNESS: Yes, I do, sir.

20 MR. LEWIS: Mr. Legge, you have consciously
21 chosen to do other things. You have clearly consciously
22 chosen to present that part of the Board which involves
23 it in national and international safety and compensation
24 and medical meetings; you have clearly given to the
25 administrative procedures of the Board an immense import --
26 it has been a very conscious choice on your part -- I don't
27 think that is an unfair interpretation, is it?

28 THE WITNESS: I think ^{that} it all has to do
29 with how much time you have. I think that when it comes
30 to deciding in the years gone by between a variety of tempora

1 commissioners who were all adjudicators and who did not
2 want to administer because they felt no continuity with
3 the Board; they were there at pleasure for a very
4 short period -- that I then consciously concentrated on
5 the changes in the administration which I had hoped would
6 be for the better and I think that the Board always
7 supported that. This was not in any way, as I have
8 tried to explain, at the expense of the adjudication
9 because the adjudication / ^{was} being extremely well done
10 like Mr. Cross, like Mr. Johnston, like Mr. Poole and
11 so on.

12 MR. LEWIS: It is difficult to ask
13 questions in some of these areas because I really don't
14 know how to phrase them. Let me phrase them awkwardly.
15 I fail to understand why you must spend so much time on
16 administrative procedures. That suggests to me not
17 efficiency and involvement, but inefficient and undue
18 attention to detail. I would have thought -- just
19 obviously going to comment on this -- I would have
20 thought a chairman of a board, you know, hiring the
21 right staff, setting up the right procedure can free
22 himself to do a great deal more adjudication and a good
23 deal less administration. I can't imagine the way the
24 Board runs in order for you to involve yourself to the
25 degree to which you say you involve yourself in ad-
26 ministrative things. It says something about the next
27 echelon personnel and they struck me as extremely compet-
28 ent.

29 THE WITNESS: I can't fully understand the
30 comment that you wish me to offer.

1
2 MR. LEWIS: Well then I am making a
3 comment, I guess, we just simply disagree. I would have
4 thought, Mr. Legge, that over the years, ..in fact within
5 two to three years, by 1968, you could have handled the
6 administration of the Board in half a day or a day at
7 the most in any given work week; that it is beyond
8 credulity to me to imagine the operation -- cabinet
9 ministers have surely as much involvement as a chairman
10 of the Workmen's Compensation Board; they are there
11 intermittently at least for question periods; they are
12 there intermittently for debates; they are around a lot
13 over major policy decisions; they handle less and less
14 of the minutiae and detail because that is why one has
15 a Civil Service, that is why one has a working Civil
16 Service. And I am perplexed as to the amount of time
17 you feel you still need to spend in 1972 coping with
18 the administrative procedures. I just can't believe
19 how, in its efficiency.

20 All right, let me put another equally
21 awkward observation, but maybe you want to comment on
22 this: I think you must enjoy tramping about abroad;
23 I think it tickles your fancy; I think that you probably
24 are pleased with giving major papers and speaking to
25 international conferences and appropriately appraising
26 the Workmen's Compensation system in Ontario and in the
27 choice between the adjudicative procedures and in some
28 ways the circuit which my friend from Lakeshore alluded
29 to this morning. I think you have chosen it because it
30 suits you, it fits you, Mr. Legge. You convey yourself

1 that way to this Committee; you have a presence about
2 you which suggests a public platform; you clearly have
3 a mastery of that field and an involvement of that field.
4 Perhaps that should be the role of the chairman of the
5 Board that one not pretend to have both an adjudicative
6 and a public function of that kind.

7 THE WITNESS: There are many ways in
8 which boards could be organized and indeed they are
9 organized in different ways. Quebec, for example, has
10 five commissioners; and sometimes six I believe.
11 Massachusetts has 12. There are many ways of doing it.

1 The Canadian system would appear to be
2 by the test of
3 by tradition and success based on experience, based on
4 the idea that the commissioners each bring certain skills,
5 certain experiences, to the corporation of three; that
6 they act thereafter as a corporate entity, a corporate
7 presidency if you like; that they ^{in fact} do no longer as in the
8 west -- the man who is appointed by the Canadian
9 Manufacturers Association or the one appointed by the
10 Saskatchewan Federation of Labour, when they come to the
11 Saskatchewan Board, they bring that experience but they
12 don't represent segments, they then become part of the
13 corporation. I personally, unlike many people whom I
14 hear in legislatures and on television and so on, do not
15 find the kind of lectures, if you like, that I give easy;
16 I feel that they have to be done for the Workmen's
17 Compensation Board. I feel that the business of travel
18 is, if you like, a part of the function. I sometimes
19 find it attractive; I frequently find it unattractive
20 because I am never allowed to stay. I can tell you that
21 there is nothing more wearing, for example, than to
22 travel to Tokyo for three days or whatever it is, of
23 that order, and basically over a weekend. This is very
24 tedious and it isn't going to some cheerful kind of
25 thing, it has to deal with serious subjects, with terribly
26 serious people.

26 MR. LEWIS: I understand that.

27 THE WITNESS: And I think, you know, in
28 appealing to your sense of fairness, that it would be
29 easy to say that I am some kind of butterfly who flies
30 around the world for my own pleasure, but to appeal to

1 your sense of fairness, it isn't so.

2 MR. LEWIS: Well, you know, that may well
3 be. I can see a tremendous personal gratification in
4 doing it, Mr. Legge. I can understand it from that
5 point alone.

6 THE WITNESS: Perhaps, sir ---

7 MR. LEWIS: But butterfly wasn't what was
8 in my mind.

9 MR. LAWLOR: No one likes to be referred
10 to as a butterfly.

11 MR. LEWIS: It wasn't the exact analogy.

12 THE WITNESS: I would like to carry that
13 one step and I would also like to talk to you sometime
14 privately about this because it is something that I
15 would not like to have a misunderstanding about with a
16 very important member of the Legislature. But, for
17 example, it would be extremely attractive to me if I
18 could take holidays with that which I have never been
19 able to do; if my family could travel with me as a
20 regularity, that sort of thing would make it very
21 attractive. But these are not possible and therefore,
22 simply as I said before, in a sense of fairness, it is
23 as much work and exacting work as anything you can do at
24 the Board.

25 MR. LEWIS: Well, this member of the
26 Legislature pointed or otherwise supported the changes in
27 the Workmen's Compensation Act because I assumed when we
28 were nominating a chairman of the Board he was going
29 to give exactly to what all of us considered the most
30 important area and that was the adjudication of claims

1 for the injured workman and all the reports that I have,
2 Mr. Legge, suggest that you are a very good adjudicator
3 indeed, that you have a sense of balance at the Board
4 in dealing with adjudicative claims which is extremely
5 valuable^{to have}/as your presence there, and I feel personally
6 very much -- very much -- the word is not "cheated,"
7 the word is "very much misled" by finding that the
8 Chairman of the Board who, in the minds at least of the
9 Legislature, was considered the most significant arbiter
10 of the claims of the injured workmen, spends on the
11 average over the last several years considerably less
12 than 40 to 45% of his time, if that, at the Board
13 adjudicating claims and is, in fact, much more a
14 chautauqua circuit performer than he is a working
15 chairman of the Workmen's Compensation Board in the
16 adjudication of claims. I feel put out by that. I
17 don't think that that is the purpose of the Act, I don't
18 think that is the purpose or the intent of the Act, I
19 don't think it is the intent ^{that} / the Chairman to wander
20 around the world putting Ontario's position. Maybe the
21 Government of Ontario or the Ministers of Labour would
22 like that to be done. I have a feeling that now that
23 they know of the position they may want to create an
24 independent post for that. Would you feel happy with
25 an independent post of that kind?

26 THE WITNESS: Of what kind, the chautauqua
27 circuit post?

28 MR. LEWIS: Yes, a serious and earnest
29 chautauqua circuit post.

30 MR. AUSTIN: Mr. Chairman, I am not sure

1 that matter is before the Committee, at least if it is,
2 I wasn't aware of it.

3 MR. LEWIS: Well, the matter of the
4 Chairman's external engagements is before the Committee.
5 He characterized them as a butterfly flitting from flower
6 to flower.

7 THE WITNESS: No, I characterized it as
8 not like.

9 MR. LEWIS: I characterize it as a chautauqua
10 circuit.

11 THE WITNESS: I would like to say on that
12 score, if you think that, sir, you have a right to feel
13 cheated; but if you think that it is not based on the
14 facts. The facts are that not really very much of my
15 time, in relation to a year, is spent in that kind of
16 activity; some of it is and we are going to have a look
17 at that as I undertook this morning. But really the
18 job is being spent as the Chairman of the Board and the
19 Chairman of the Board is now in a position to sit, I hope,
20 between 50 and 75% of the time on the adjudication and
21 the Chairman of the Board will still be able, with the
22 functional organization which has now been completed for
23 some time, to still be the chief adjudicative officer,
24 still have time to talk with ^{his} colleagues, still have time
25 to deal with the principal officers and I would like
26 you to consider it in that context of realism, sir.

27 MR. LEWIS: Well, I am most willing to
28 consider it, Mr. Legge.

29 THE WITNESS: Thank you.

30 MR. LEWIS: I consider it an astonishing

1 matter of fortune and convenience that the 60% level
2 was reached in the first three months of 1972 but has
3 never been approximated up until now. I suppose one can
4 say that that meets the change is underway but I would
5 like a longer graph before rendering judgement because
6 the figures we have from '65 to '71 clearly don't suggest
7 that. That is a long time to get the administration in
8 order, six years.

9 THE WITNESS: Seven commissioners, sir,
10 in that period.

11 MR. LEWIS: Ah, but they were all
12 experienced and talented, Mr. Legge, as adjudicators,
13 and you need only handle the administration. Six years
14 then becomes a very long time, sir.

15 THE WITNESS: Well, I am a public servant,
16 sir, and, you know, really, I am quite incompetent to
17 wage my own case against you, quite incompetent. I am
18 a public servant.

19 THE CHAIRMAN: I think I have to interject
20 at this point. The Committee have heard this exchange
21 or whatever you want to call it.

22 MR. LEWIS: I have completed, Mr. Chairman.

23 THE CHAIRMAN: And the Committee will be
24 in a position to hear what was said and make proper
25 recommendations.

26 MR. LEWIS: I may say and I think I'm
27 right, Mr. Legge, that incompetence is not a word which
28 the Committee would have associated with you at any time.

29 THE CHAIRMAN: Mr. Singer?

30 MR. SINGER: Yes, Mr. Chairman, I have a

1 few questions for Mr. Legge.

2 Mr. Legge, I have been interested in
3 following -- unfortunately I haven't been able to attend
4 all of these hearings -- I have been reading portions of
5 the transcript but I have been interested in trying to
6 correlate your comments in relation to running the
7 Board by regulations. Earlier this afternoon you said,
8 after all, you have been a civil servant for 22 years.

9 THE WITNESS: Twenty-two years.

10 MR. SINGER: And you go by regulations
11 and the correlation of that to the interesting arrangements
12 made for Mr. Cauley's retirement -- my puzzlement started
13 when Mr. Bales apparently tried to give us some
14 mathematical formulae in the House and it is continued
15 since then as a variety of people, including yourself,
16 have tried to equate what was done for Mr. Cauley as
17 reflected in these minutes of May 8th, to some kind of
18 mathematical formula. You persist in your opinion or
19 your statement that this is in accordance with some form
20 of regulation, do you?

21 MR. AUSTIN: Mr. Chairman, you asked me
22 to advise you when this matter was getting repetitious
23 and I think we have heard this -- this is now the fifth
24 time, as I recall.

25 THE CHAIRMAN: Your question was,
26 Mr. Singer?

27 MR. SINGER: Does Mr. Legge persist in
28 saying that the decision as reflected in the minutes
29 of the 8th of May was in accordance with some sort of
30 regulation so far as it effects Mr. Cauley's entitlement?

1 THE WITNESS: The regulation, as I recall,
2 sir, and I have never said that at that time there was a
3 regulation -- I'm sorry, I don't know your question.

4 MR. SINGER: I am saying that you stated
5 earlier this afternoon -- your words were, as I recall,
6 "being a civil servant for 22 years..."

7 THE WITNESS: Yes, I recall what I said --
8 thank you for the thread.

9 MR. SINGER: Yes.

10 THE WITNESS: What I said was that there is
11 nothing ⁱⁿ compatible between justice and equity and having
12 justice and equity put in regulations. The burden of my
13 argument about Mr. Cauley was that when the Board signed
14 the order the Board believed that it was giving him his
15 accumulation of sick leave and holiday credits; that is
16 what the Board believed. Since then, there have been,
17 I am told, some 50 people, and since then, there are
18 regulations embodying this concept of justice and equity
19 and that's all I say.

20 MR. SINGER: Could you answer me
21 specifically: are there regulations in existence today
22 that would deal with the premature retirement, say, of
23 Mr. Hamilton? Can you show us what Mr. Hamilton would
24 be entitled to if he retired this afternoon?

25 THE WITNESS: I think that I am not
26 capable of dealing with those regulations. There is
27 Mr. Betts here and there is Mr. MacDonald, ~~here~~ who could
28 deal with it. Now then, you raise an interesting
29 problem about Mr. Hamilton because there is obviously
30 a drafting error in the ~~Stable~~ order or the Cauley order

1 or one of them -- I have kind of forgot which -- because
2 the Board does not appoint nor can the Board accept the
3 resignation of commissioners so the question of Mr. Hamilton
4 is rather more difficult than an employee.

5 MR. SINGER: Well, obviously this point,
6 as Mr. Austin has indicated, has been worried almost to
7 death and we are not getting very far. It brings us to
8 a very interesting point and that is the incidence of
9 dates in relation to Mr. Cauley. As I recall the
10 evidence, Mr. Cauley went to see the Minister on the
11 5th of May. Then we have this Board order on the 8th of
12 May and then there follows a letter of resignation on
13 the 12th of May; and as I recall, Mr. Legge, someone did
14 ask you how it came about that the confidential order of
15 the Board dated the 8th of May came in advance of
16 Mr. Cauley having put his pen to paper and advised the
17 Minister formally that he was resigning. As I recall it,
18 you said it was, what was your phrase? You said it was
19 generally known that it was au fait accompli, or words
20 roughly to that effect.

21 THE WITNESS: Well there certainly is
22 no secret insofar as I am concerned, Mr. Singer. The
23 Minister dealt with Mr. Cauley. The Minister was in
24 close communication with us and we with him and these
25 were obviously the arrangements that were approved at
26 the time.

27 MR. SINGER: I see. ^{that} So are you indicating
28 to us that the Minister communicated with you?

29 THE WITNESS: Oh yes.

30 MR. SINGER: --- between the 5th and the

1 8th of May and told you that Mr. Cauley had resigned?

2 THE WITNESS: Oh, absolutely.

3 MR. SINGER: He did?

4 THE WITNESS: Yes.

5 MR. SINGER: Did he do it by letter or by
6 telephone?

7 THE WITNESS: I would think ---

8 MR. SINGER: Or in an interview?

9 THE WITNESS: In an interview because I
10 saw him reasonably frequently in those days.

11 MR. SINGER: And the Minister, as I recall
12 it, chose his language^{rather} carefully and it seemed to
13 indicate to us that until he had Mr. Cauley's letter in
14 his hands on the 12th of May, he really wasn't sure what
15 Mr. Cauley was going to do.

1 THE WITNESS: Well of course I was not
2 privy to that and all I know is that the Board order was
3 certainly acceptable to the Minister and that the
4 information about his resignation had to come from the
5 Minister and that we were/very close communication at
6 that time.

7 MR. SINGER: Did you see any written
8 record indicating that Cauley had resigned before he
9 signed his letter of May 12th addressed to the Minister?

10 THE WITNESS: No, I can't recall seeing
11 anything at all like that, sir.

12 THE CHAIRMAN: Mr. Singer, we have dealt
13 with that at some length.

14 MR. SINGER: We have, but my examination
15 of the transcript indicates that it was dealt with most
16 cursorily and there was no answer to it and there is
17 still no answer.

18 Could you tell me why the order of the
19 Board is called a confidential order of the Board? Do
20 you have different types of orders, confidential and
21 non-confidential?

22 THE WITNESS: I was intrigued by that too,
23 because as I recall Dr. Steele's is not. I don't know.

24 MR. SINGER: You don't know?

25 THE WITNESS: I don't know what frankly
26 was put on it. The Secretary of the day must have felt
27 that this warranted that writing.

28 MR. SINGER: Was there any unique about
29 confidential orders? Are they put in a separate book,
30 are they locked in a vault or are they hidden from the

1 view of some people and not from others?

2 THE WITNESS: I would assume, but I don't
3 know from firsthand knowledge, but the custodian of the
4 records, the Board's secretary, could definitely answer
5 that. I would assume there is a different category of
6 holding the document.

7 MR. SINGER: How many orders would the
8 Board pass in a year?

9 THE WITNESS: I don't know, but now that
10 we have a regularized business meeting there are a dozen
11 or half a dozen every Tuesday, and then there are some
12 others too such as the Board's investments which take a
13 Board order.

14 MR. SINGER: So we are talking around 500
15 a year in round figures?

16 THE WITNESS: To guess along with you
17 I would guess that not to be unfair.

18 MR. SINGER: And of those how many would
19 be confidential?

20 THE WITNESS: If you wanted my personal
21 view as to the practice, and I am not competent to
22 distinguish the practice, I would think that all of the
23 Board orders should be confidential to the Board and to
24 the custodian which is the secretary and that the action
25 that flowed from those orders, it would be a matter
26 for the principal officer to deal with.

27 MR. SINGER: I see. So whether they are
28 labelled confidential or not is comparatively immaterial,
29 is it?

30 THE WITNESS: I would think they should all

4/3

1 be very carefully held, yes.

2 MR. SINGER: Now, let's review a number
3 of other matters. In the variety of activities in
4 addition to the actual Board administration and Board
5 adjudication you indicated to us that you had served
6 under four separate Ministers and that you had no
7 complaints from them as to your activity?

8 THE WITNESS: Did I indicate that, sir?

9 MR. SINGER: Yes, you did. Is that
10 correct?

11 THE WITNESS: I have found that it was
12 possible to work in harmony with all four, yes.

13 MR. SINGER: Now, when you were going on
14 a trip to Japan to discuss the Ontario Compensation Board
15 with interested people ---

16 THE WITNESS: To give a lecture.

17 MR. SINGER: Or when you were going on any
18 of these other trips, did you indicate either to your
19 colleagues on the Board or to the Minister that you
20 were going?

21 THE WITNESS: Always to both, sir.

22 MR. SINGER: Always to both?

23 THE WITNESS: And in the case of leaving
24 the country, this requires of course Ministerial
25 acquiescence.

26 MR. SINGER: And is that acquiescence with
27 or verbal?

28 THE WITNESS: I think it is usually
29 verbal. I call on the Minister with the problem or he
30 summons me and it is part of the agenda that we deal with.

1 MR. SINGER: And then in relation to
2 activities that perhaps so far as I can see have no
3 direct relation to the Board, the Reserve Army, were
4 the four Ministers aware of the extent of your involvement
5 in the Reserve Army?

6 THE WITNESS: Oh, always, sir.

7 MR. SINGER: Always?

8 THE WITNESS: Yes, sir.

9 MR. SINGER: And it is my understanding
10 that you say you took 20 days a year or approximately
11 20 days a year?

12 THE WITNESS: For all purposes, sir.

13 MR. SINGER: For the Reserve Army?

14 THE WITNESS: For all purposes, sickness,
15 holidays and the Reserve Army.

16 MR. SINGER: I see.

17 THE WITNESS: I will just check that if
18 I may.

19 MR. SINGER: My notes indicated ---

20 THE WITNESS: All purposes, sick leave,
21 vacation and military leave in total averages 20.

22 MR. SINGER: In total, I see.

23 THE WITNESS: Twenty per year.

24 MR. SINGER: Twenty per year.

25 THE WITNESS: Yes.

26 MR. SINGER: Have you had any excess of
27 vacations coming to you, those standards of credit for
28 you the same as they did for Mr. Cauley?

29 THE WITNESS: Is that a Freudian hope,

30 sir?

4/5

1 MR. SINGER: I am asking you is that right?

2 THE WITNESS: I don't know about the same
3 as Mr. Cauley.

4 MR. SINGER: But in the same fashion. I am
5 not necessarily meaning the same number, but if in any
6 year you didn't use up your four weeks entitlement, those
7 days would still stand as a credit to you?

8 THE WITNESS: The accumulation of sickness
9 and holidays is the same for all Commissioners and all
10 employees, sir.

11 MR. SINGER: And in connection with your
12 work with the militia, did you do any militia work in the
13 days you were at the Board?

14 THE WITNESS: Oh, very little. I would
15 have the odd phone call. I would see perhaps one person
16 a month for half an hour during the day, that sort of
17 thing.

18 MR. SINGER: Did any of the employees of
19 the Board assist you in your militia work?

20 THE WITNESS: In what way, sir?

21 MR. SINGER: Oh, in preparing documents.

22 THE WITNESS: I have, I think I said -- I
23 may not have -- I have a large regular force staff to do
24 the military work.

25 MR. SINGER: But did any people in the
26 Board assist that regular force staff or assist you?

27 THE WITNESS: Oh, from time to time I had
28 had help from, oh, my secretary for example occasionally,
29 that sort of thing.

30 MR. SINGER: And did any of that assistance

1 from Board employees come during normal working hours?

2 THE WITNESS: Some of it certainly would
3 have and I am not trying to say it didn't happen at all,
4 I am trying to recall. I would think that it would be
5 very slight.

6 MR. SINGER: And you were I understand
7 substantially involved in both the Canadian Club and
8 Empire Club?

9 THE WITNESS: Well I have been a member
10 of both for a long time. I have never held office in the
11 Canadian Club, but I was the president of the Empire Club
12 in 1958 which was seven years before I went to the Board.
13 When I was in the Federal Civil Service, the Federal
14 Ministers encouraged me to take part in public affairs.

15 MR. SINGER: Were any of the activities,
16 your activities of the Canadian Club or the Empire Club
17 occurring during the time you were Chairman of the
18 Board?

19 THE WITNESS: Well I am a past president
20 of the Empire Club and I go perhaps 25 to 50% of the
21 time. My association with the Club is now very slight.
22 I can't think of what it is you are inquiring into.

23 MR. SINGER: I am thinking if any of your
24 activities while you were at the Board involving the
25 Canadian and Empire Clubs involved the assistance of the
26 staff or the members of the Board for that activity.

27 THE WITNESS: If for example I were going
28 to, oh, do a thank you for a speaker -- it could only be
29 a thank you because that's all I do -- and I wanted a
30 certain point researched I think there would be no

14/7 1 difficulty in having that done.

2 MR. SINGER: Well I'm not asking you about
3 the difficulty, was it in fact done?

4 THE WITNESS: I am trying to think and
5 I think that it has occasionally happened, yes, such as
6 looking up what somebody else said in a previous speech
7 to the Empire Club, all of which are a matter of record.

8 MR. SINGER: And this service would have
9 been performed, this research service by employees of
10 the Board?

11 THE WITNESS: Yes, but it is negligible.

12 MR. SINGER: Now a lot of time this
13 Committee was involved in discussing the Cauley picture
14 incident, if I can describe it that way. I understand
15 or I am given to understand that there was another
16 kind of a picture incident, some kind of a reference was
17 made to that in a story in the Globe and Mail on the
18 22nd. Did you at any stage indicate that you would like
19 to have a Board portrait done by a photographer names
20 Artin Kabouk?

21 MR. AUSTIN: Mr. Chairman, may I ask for
22 a ruling as to whether or not the Committee is going to
23 go into this at the present time, or whether the Board
24 is to be afforded an opportunity to meet this question.

25 MR. LAPKIN: Mr. Chairman, if I may
26 interrupt for a moment.

27 THE CHAIRMAN: This is a matter in last
28 Saturday's Globe and Mail and I think it was decided
29 this morning and it was agreed to by the Committee that
30 we would go into that at a later time.

1 MR. LAPKIN: Mr. Chairman, if I might
2 address the Committee for one moment. It was my
3 impression that Counsel for the witnesses were not
4 allowed to address this Committee. Now I believe this
5 is the tenth time today that Mr. Austin has done so,
6 and I would assume that not only is justice to be done
7 but it must appear to be done, and again I must assume
8 that Mr. Cauley's Counsel would have been extended the
9 same privileges.

10 THE CHAIRMAN: Your point is well taken,
11 Mr. Lapkin. Thank you, sir.

12 MR. SINGER: I am not sure I understand
13 the ruling of this morning, Mr. Chairman, I wasn't here.
14 Could you explain that to me?

15 THE CHAIRMAN: Counsel, do you want to
16 do that?

17 MR. DONNELLY: Well, as I recall the
18 morning we discussed generally the philosophy that any
19 person is entitled to know the charges and to have had
20 a fair opportunity to defend and it was suggested that
21 perhaps these matters that were raised since we last
22 convened are matters that we should probably go into,
23 but it might be fair with the Board if they had an
24 opportunity to do their own research on them and deal
25 with them at a later date. I don't think it was ever
26 suggested that we shouldn't properly deal with them now.

27 THE CHAIRMAN: I think that was understood,
28 we were going to deal with them at a later date, that
29 is, any matters such as appear in the newspaper since ---

30 MR. SINGER: I notice Mr. Lapkin uses the

1 word "charged" and I am not charging anything and if
2 one of my sources of information happens to be an
3 article in Saturday's paper or even tomorrow's paper,
4 it still isn't a charge, I am just entertaining
5 information.

6 THE CHAIRMAN: That witness will be
7 called on Thursday, following that any of those
8 questions will be in order.

9 MR. SINGER: Where is the cut-off line?
10 What was in the Globe at the 1st of April or the 5th or
11 10th or the 21st?

12 MR. MILLER: May I make a comment, Mr.
13 Chairman? I get a little concerned when questions are
14 brought up that are repetitive and I have great
15 respect for the gentlemen that come in and out of the
16 meeting but a lot of these things were covered and
17 discussed in your absence and it seemingly takes a lot
18 of time to explain them over again.

19 MR. SINGER: A lot of time in explaining
20 what over again, Mr. Miller?

21 MR. MILLER: Things such as what is the
22 cut-off line and questions such as you have just brought
23 up.

24 MR. SINGER: Well I think this is most
25 relevant and we all are very busy and I am a member
26 of the Legislature and I intend to assert whatever
27 rights I think I have. I think I am asking in a
28 reasonable way of the Chairman if there is a cut-off
29 date and what in fact he means by it.

30 THE CHAIRMAN: It was decided by the

10 1 Committee that any new information that came to hand
2 after last Thursday's meeting would be dealt with at a
3 later date, and we are going to stay with the business
4 at hand. Now the Committee first decided to call I think
5 Mr. Dowding and he is going to appear Thursday and any
6 questions related to his statement may be asked following
7 his appearance.

8 MR. SINGER: Perhaps someone is anticipating,
9 Mr. Chairman. I was not going to ask in relation to
10 what was in the Globe and Mail, I was going to ask in
11 relation to certain information that come into my hands
12 that deals with a somewhat similar matter. Now, if we
13 are limited only to -- and I have a fair bit of information
14 here -- if we are limited only to charges that were made
15 by some individual or other, this would seem to preclude
16 my ability to deal with information that has come to my
17 attention. Surely that can't be the intention of the
18 Committee.

19 THE CHAIRMAN: In connection with Mr.
20 Cauley's termination of his appointment with the Board
21 or what is it in relation to?

22 MR. SINGER: No, I am interested in a
23 series of portrait photographs and questions concerning
24 a photographer named Artin Kabouk, and other photographers
25 that got involved in this particular incident, Gilbert
26 A. Milne and Kenneth Bell and costs and procedures in
27 relation to that. I don't think that was dealt with
28 in the newspapers, but these are matters that I have
29 some questions about.

30 MR. DONNELLY: Mr. Chairman, if I might

1 for just a moment address a remark to Mr. Singer. What
2 happened this morning, Mr. Singer, I think originated
3 at a suggestion that I made that I think the Committee
4 might find itself in a position of almost trial by
5 installments, that is, we go on and deal with a matter
6 and then something crops up again. What I have suggested
7 to the Committee was this; that at some stage there must
8 be some area of finality and the Committee might consider
9 rising perhaps for a week or ten days and making some
10 public announcement that any person who has matters to
11 come before the Committee please do so by a certain date,
12 and anything arising after that will not be within our
13 term of reference, if you can call it that. And the
14 second point, and we touched on this very matter I think,
15 is that I did, on the 17th of April I think your public
16 inquiries amendment came into force and the general
17 philosophy of that legislation, although I think it
18 specifically excludes us, is that any person, and again
19 this word "charge" comes up and I don't think they had a
20 fair opportunity to make an explanation or defence and I
21 simply suggested that although the Committee is not bound
22 by this, it may think in fairness it should extend that
23 equal principle to the people it deals with here and it
24 was my suggestion then that these matters that the Board
25 has not had advance notice of possibly could stand over
26 and it is the last thing I want to do is suppress any
27 inquiry or examination about them.

1 But simply I was hopeful that the Committee might think
2 that the Board should have a fair opportunity or notice
3 to do its research and come up with an answer and it was
4 on that basis I made the suggestion, sir.

5 MR. SINGER: Well I can appreciate what
6 you are saying. We had a brief talk the other evening
7 in relation to the land matter and I agreed to withhold
8 any questions about that for the present time. But again
9 I think there is very substantial difference in the broad
10 Terms of Reference given to this Committee by the House
11 and I am not making any charges; I have certain infor-
12 mation that was brought to my attention about which I
13 would like to ascertain the facts. This is the infor-
14 mation I was given correct or incorrect; is it relevant
15 or is it not relative? And rather than expect that Mr.
16 Legge is going to be called back -- I have several
17 pages of memoranda here that I had hoped that I could
18 deal with at some length this afternoon or whenever it
19 is appropriate.

20 THE WITNESS: I will be back, sir.

21 THE CHAIRMAN: Mr. Legge will be back on
22 the stand again.

23 MR. SINGER: Yes, but I see no reason,
24 Mr. Chairman, while we are investigating Mr. Legge's
25 role in connection with the Board and while photographs
26 have been talked about, one says, "Why shouldn't it be
27 allowed that you could talk about another set of photo-
28 graphs?"

29 THE CHAIRMAN: We are really investigating,
30 Mr. Singer, for the past five days or so allegations and

1 statements made by Mr. Cauley and we have been relatively
2 sticking to that and we want to dispose of that matter
3 first.

4 MR. SINGER: Well, Mr. Chairman, one of
5 the allegations -- one of the side issues relating to Mr.
6 Cauley was the question of photographs.

7 THE CHAIRMAN: I have to remind you, Mr.
8 Singer, that the Committee agreed this morning to follow
9 the suggestion of counsel and the Committee has agreed
10 on that.

11 MR. SINGER: Well I am still not clear in
12 my mind as to what the Committee agreed upon. If you
13 draw the line between discussing the land question and
14 what is presently before us, that I can understand. How
15 do you distinguish between two photographs, is that a
16 part of the Committee's decision?

17 MR. DEANS: It was.

18 MR. SINGER: That was?

19 MR. DEANS: It was referred to. The
20 discussion this morning centred around the two reports
21 in the newspaper, both of which I had here, that it was
22 decided by the Committee, whether wisely or not, that
23 we would not deal with any other reports emanating from
24 newspaper or anything pertaining to them until after
25 we have cleared up all of the things there were already
26 before us. The parting of that decision ---

27 MR. SINGER: May I ask you then, Mr.
28 Chairman, if you ruled out anything that appeared in the
29 newspaper after last Thursday at the present time whether
30 that would equally rule out other information that a

1 member of the Legislature might have had brought to his
2 attention. Am I allowed to persue those factors now or
3 when?

4 THE CHAIRMAN: I think if it is pertaining
5 to the Cauley affair, if we can call it that, yes.

6 MR. LEWIS: Mr. Chairman, but Mr. Singer
7 isn't really going to be permitted and nobody else either
8 because if I understand Mr. Dowding on whose basis the
9 entire Globe and Mail affidavit, article, was promised
10 is going to appear before this Committee on Thursday
11 morning. I presume, therefore, any matter relating to
12 the, you know, things that were raised can then come up.
13 I presume that Mr. Dowding will have to say under oath
14 what was printed in the Globe.

15 MR. MILLER: Certainly such new charges
16 and sources of information as other people may have were
17 suggested by counsel as being presented so that the
18 defendants in a sense could examine them and be ready
19 to answer questions; is that correct?

20 MR. DONNELLY: That was my hope that it
21 might be accomplished, yes.

22 MR. LEWIS: We can't govern -- you know,
23 the Globe and Mail I presume will have a number of
24 seconds and unless we subpoena Mr. Doyle ---

25 THE CHAIRMAN: Have you further questions,
26 Mr. Singer?

27 MR. SINGER: Well, yes, I do, I'm still
28 not clear at all, Mr. Chairman. My questions were not
29 going to relate to Mr. Dowding, they were going to relate
30 to information that I had

1 THE CHAIRMAN: Well it's new information
2 as far as this Committee is concerned.

3 MR. DEANS: Well now wait a minute. We
4 are getting off on a tangent. If Mr. Singer's information
5 is pertaining to either the allegations of Mr. Dowding
6 or the report in the Saturday Globe and Mail of April
7 22nd with regard to executive portraits and Mr. Kabouk
8 and other people, then we had decided this morning to
9 deal with that after we had heard all of the witnesses
10 pertaining to the matter of the administration of the
11 Board and the allegations made by Mr. Cauley. We had
12 decided to deal with those things when Mr. Legge is
13 called back before the Committee to answer the other
14 matters pertaining to the Board including the land deal
15 or land transaction, including the matters of the fee --
16 the fines to the corporations, all of those things will
17 be dealt with at the next session of the Committee.

18 MR. SINGER: All right, well we will let
19 Mr. Kabouk be out of bounds for the moment. Is it in
20 order, Mr. Chairman, if I should ask or pursue a bit
21 certain questions in relation to listening devices,
22 would that be in order?

23 MR. DEANS: Yes.

24 THE CHAIRMAN: Yes, about listening devices.

25 MR. LEWIS: The Globe wrote about that
26 almost a week ago.

27 MR. SINGER: That is the test.

28 MR. DEANS: We rose that before.

29 MR. SINGER: Mr. Legge, I am advised
30 that Mr. Draper -- Draper's office physically was located

1 reasonably close to yours; is that right?

2 THE WITNESS: Four or five away.

3 MR. SINGER: And I am advised that there
4 was quite an elaborate series of recording devices that
5 he had available to him and that he used and staff
6 members used in relation to his instructions; are you
7 aware of that?

8 THE WITNESS: I am aware he has dictating
9 machines and tape recorders, yes.

10 MR. SINGER: I think I recall in your
11 earlier evidence you said that if he was using these
12 machines in relation to recording telephone interviews
13 and so on that you didn't know anything about it?

14 THE WITNESS: That is correct, sir.

15 MR. SINGER: And had you known you would
16 have disapproved?

17 THE WITNESS: Yes.

18 MR. SINGER: I think you used the word
19 "shocked"?

20 THE WITNESS: Yes.

21 MR. SINGER: Were you ever told about a
22 tape recorder being concealed behind drapes in meetings
23 that took place in Mr. MacDonald's office?

24 THE WITNESS: Never, sir.

25 MR. SINGER: Are you knowledgeable at
26 all about the tape recordings of telephone conversations
27 between Mr. MacDonald and Mr. Wesley Hicks, at one time
28 newspaper columnist with the now defunct Toronto
29 Telegram?

30 THE WITNESS: No.

1 MR. SINGER: You are not. Did you know
2 anything about the recording of telephone interviews
3 between Mr. Draper and the operator of a training school
4 for safety supervisors, the (Dayswood) Safety School?
5 Are you familiar with the (Dayswood) Safety School?

6 THE WITNESS: I believe that that was one
7 of the organization that trained some of our rehabilitees
8 at one time, but I can't really recall. I think it was
9 one of the organizations that trained one of the re-
10 habilitees to be safety workers.

11 MR. SINGER: So whether there were or
12 were not recordings of conversations between officials
13 of this you would have no knowledge?

14 THE WITNESS: No, I have no personal
15 knowledge.

16 MR. SINGER: Did the Board give any
17 finance or assistance to (Dayswood)?

18 THE WITNESS: Again, from recollection,
19 the Board certainly paid a fee for service in training
20 those people if I recall correctly. The extent of it
21 is a matter of record. We can produce it for you, sir.

22 MR. SINGER: All right.

23 THE CHAIRMAN: Have you completed, Mr.
24 Singer?

25 MR. SINGER: No, I haven't, Mr. Chairman.
26 I have made copious notes here and I am just looking
27 at the pertinent ones about which Mr. Legge might be able
28 to give us some information.

29 Are you aware at all, Mr. Legge, of
30 instructions given to senior staff members that there be

1 memoranda relating to their conversations with Board
2 members?

3 THE WITNESS: Certainly not by me. I
4 have never heard of any.

5 MR. SINGER: You have never heard of any?

6 THE WITNESS: No. My policy, and I don
7 mind reiterating it again, each member of the Board has
8 to have access with the principal officers and they have
9 to have access to the members of the Board.

10 MR. SINGER: If there were any instruct-
11 ions given about committing conversations to writing, if
12 such conversation took place you wouldn't know anything
13 about it?

14 THE WITNESS: No, I wouldn't.

15 MR. SINGER: This isn't in the field,
16 perhaps I had better get a ruling, Mr. Chairman, from
17 all those who were giving rulings. Can I discuss the
18 question of executive washrooms at this point? Is that
19 in order?

20 THE CHAIRMAN: Well it all depends. Go
21 ahead and we will see.

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1 MR. SINGER: I understand that you had
2 a private washroom, Mr. Legge, close to your office?

3 THE WITNESS: Well, I inherited one most
4 remote from my office.

5 MR. SINGER: And I am advised two other
6 Commissioners expressed a desire to have the use of
7 those facilities and that didn't seem to meet any great
8 approval; is that right?

9 THE WITNESS: No, that is not correct.

10 MR. SINGER: Why was another executive
11 washroom built to accommodate the other Commissioners if
12 there already was one in existence?

13 MR. LEWIS: A highly personal kind of
14 question.

15 THE WITNESS: I think personally for
16 convenience, sir.

17 MR. SINGER: Simply for convenience?

18 THE WITNESS: Yes.

19 MR. SINGER: If there was one executive
20 washroom ---

21 THE WITNESS: But there isn't an executive
22 washroom if you would like to go into this.

23 MR. SINGER: Yes, I found it of some
24 interest.

25 THE WITNESS: As matters stand there are
26 two washrooms for the Commissioners.

27 MR. SINGER: There was only one up until
28 fairly recently?

29 THE WITNESS: Until the appointment of
30 Mr. Decker and Mr. Hamilton.

1 MR. SINGER: And why was it found
2 necessary to build a second one?

3 THE WITNESS: I think the best answer
4 I can give you is a matter of convenience.

5 MR. SINGER: A matter of convenience.
6 At what cost was that? Have you any idea?

7 THE WITNESS: No, I haven't, but we can
8 get that for you.

9 MR. SINGER: I would be interested in that.

10 MR. LEWIS: A very explosive inquiry.

11 MR. SINGER: I am interested too in the
12 handling of public relations of the Board and phrase
13 that was conveyed to me in relation to the particular
14 agency, I think the Foster Agency, which was called
15 the control agency. Are you familiar with that phrase?

16 THE WITNESS: No, I don't know that phrase
17 which has a (inaudible) sound to it. I think that
18 Foster's is the agency of record; I think that is the
19 phrase.

20 MR. SINGER: The agency of record?

21 THE WITNESS: Yes.

22 MR. SINGER: I see. Now what exactly
23 does that mean?

24 THE WITNESS: This means that in the
25 formal information giving relationships of the Board
26 that this is the agency of record. If other agencies
27 are used that somehow or other --, and Mr. Kerr who is
28 the director of this service can give all the techniques
29 of it -- that if other agencies are used that they are
30 coordinated by the agency of record, and it also has

1 has something to do, if I recall correctly, with the
2 billing.

3 MR. SINGER: How did the Foster Agency
4 get into this rather unique position?

5 THE WITNESS: This is a matter that was
6 studied very carefully by the Board which I would be
7 very happy to have dealt with, but I think I need a
8 little notice of this. I can say shortly to give you
9 a generality, but the question was studied and that
10 Foster's became after due study the agency of record.

11 MR. SINGER: Was there a minute of the
12 Board that appointed him?

13 THE WITNESS: Yes.

14 MR. SINGER: Now was it a confidential
15 minute?

16 THE WITNESS: I would have to see the
17 minutes.

18 MR. SINGER: I see.

19 THE WITNESS: But this could certainly
20 become another area if you like to inquire into it, but
21 I wouldn't be able to deal with it in an informative way
22 without preparation.

23 MR. SINGER: I am advised that there was
24 presented to you at one time a program for public
25 relations involving the Board's activities which suggested
26 the use of three other agencies. Would you recall that?

27 THE WITNESS: Well there were several
28 submissions made about the kind of programs that the
29 Board should consider

30 MR. SINGER: Do you recall a specific one

1 naming three other agencies?

2 THE WITNESS: I don't specifically recall
3 but I could easily refresh my memory or have the
4 experts produce the material.

5 MR. SINGER: Well, if the information I have
6 is correct there was a presentation made to you and you
7 took some ---

8 THE WITNESS: I say we heard some
9 presentations, yes, as a Board.

10 MR. SINGER: And these were not public
11 presentations, these were presentations made through
12 the Board by your official?

13 THE WITNESS: Well, we have had presentations
14 from agencies too.

15 MR. SINGERS: I am dealing specifically with
16 recommendations made through the Board by an employee or
17 employees.

18 MR. ALLAN: Mr. Chairman, I think that I
19 this morning was persuaded that discussions of this type
20 should wait for another time. Isn't that the agreement
21 that was reached this morning, that we would go into
22 the administration?

23 MR. SINGER: I thought I was safe on this.
24 It hasn't even appeared in the Globe and Mail.

25 MR. ALLAN: No, but what does this have to
26 do with Mr. Cauley?

27 MR. SINGER: It has something substantially
28 to do with Mr. Legge. Now I was going to suggest if Mr.
29 Legge wants to refresh his memory I will be glad to let
30 him look at the records and so on in this regard because

1 I want to ask him some specific questions about ---

2 THE CHAIRMAN: Then we can come back to
3 it when we get into the general session.

4 MR. GOOD: Mr. Chairman, with all due
5 respect we have been dealing with many matters not too
6 directly associated with Mr. Cauley's retirement over
7 the past number of days, but the general conditions
8 at the Board have been in question by all members of
9 the Committee and I think this is along that line, and
10 I think it is not out of order.

11 MR. SINGER: I am not prepared to accept
12 a hatchet that the Honourable Member of Haldimand is
13 trying to wield. I would be much more prepared to go
14 along with Mr. Legge's suggestion that he wants to
15 refresh his memory and we will deal with it at a later
16 date if that is your suggestion, or do you feel you are
17 able to discuss it now?

18 THE WITNESS: I feel I am most certainly
19 not able to discuss it, Mr. Singer, at this stage. I
20 think that we should have, if I may suggest, a notice
21 of what the subject matter is and we will be very happy
22 to produce all the material that there is on this ---

23 MR. SINGER: I am interested particularly
24 on what I am advised were your reactions in relation to
25 a particular presentation made by you.

26 THE WITNESS: Made by me?

27 MR. SINGER: Yes.

28 THE WITNESS: When did I make the
29 presentation?

30 MR. SINGER: No, your reactions when the

1 presentation was made to you.

2 THE WITNESS: I don't know.

3 MR. SINGER: When I use the phrase, "by
4 you" I meant "to you" and the exception that you took
5 to the lack of consultation or apparent lack of consultation
6 with the Foster Agency.

7 THE WITNESS: I didn't.

8 MR. SINGER: This was my advice. Now if
9 you want to take time to get further information I will
10 be glad to withhold my questions on this until a later
11 date.

12 THE WITNESS: Well, I would appreciate it.
13 I think, Mr. Chairman, that if there is to be an inquiry
14 about the agency and advertising policies of the Board,
15 that it is part of the things that Counsel should advertise
16 for and that I heard discussed this morning.

17 MR. DONNELLY: Mr. Chairman, the principle
18 simply is that I think if the Board is to be directed
19 specifically at a certain area it saves time if they have
20 a chance to prepare themselves, and it is only that
21 suggestion that I make.

22 MR. SINGER: Well I have laid the groundwork
23 on that, Mr. Chairman. Mr. Legge obviously wants to obtain
24 more information and I only want him to give me the
25 correct information; I don't want him to give this if
26 he doesn't remember.

27 THE WITNESS: Well, you know me better
28 than that. I won't guess at it.

29 THE CHAIRMAN: Are you completed, Mr.
30 Singer?

1 MR.SINGER: Just let me look through my
2 notes again, Mr. Chairman.

3 Mr. Legge, I am advised in the fiscal year
4 1971 you received as compensation for your Reserve Army
5 activities something in the order of \$3,000.00; is that
6 about correct?

7 THE WITNESS: Seventy-one?

8 MR. SINGER: Yes, \$3010.70 is the figure
9 that was given to me.

10 THE WITNESS: I don't really want to talk
11 about the money I get about anything. If I could most
12 respectfully ask you, why do you wish to know my income,
13 sir?

14 MR. SINGER: I am not interested in your
15 general income, I am interested in your income while you
16 were serving at the Board in relation to extracurricular
17 activities because the pertinent section of the Board Act
18 provides you to devote all of your time to it.

19 THE WITNESS: I do, sir, I devote all of
20 my time to the Board.

21 MR. SINGER: Is the information that has
22 been given to me which I presume comes from the public
23 accounts of the Federal Government, that in the fiscal
24 year 1971 you received \$3,010.70; is that approximately
25 correct?

26 THE WITNESS: It most certainly doesn't
27 come from the public accounts at all. Any information
28 like that has been given out by someone and it is like
29 income tax information, it puts me in a very invidious
30 position because I just don't know. But if you insist

1 I will try to find it. And I am not pleading any
2 invasion of privacy, don't misunderstand me, Mr. Singer,
3 but the money that I get from the Reserve Army is not
4 important except as an extra source of tax. But why --
5 if I may ask -- are we going into this which is the sort
6 of thing that rather bothers me as being so intensely
7 personal. I don't know, I believe, sir, at one time
8 you were a member of the Reserve Army and I don't know
9 if you would have been pleased if people had asked you
10 that.

11 MR. SINGER: Well, I always thought that
12 when you were getting money from a public source that
13 it was reasonably a matter of public record.

14 THE WITNESS: Well, I am sure that if you
15 want ---

16 MR. SINGER: Besides I was not a member
17 of the Reserve Army. When I crossed the ocean back again
18 I was happy in 1946, I was happy to sever my Army
19 connections at that point. Five years was long enough
20 for me.

21 THE CHAIRMAN: I think that the witness
22 feels that this question is touching perhaps on something
23 personal. I don't believe that the Committee wish to
24 see this point pursued. Personally I don't think it
25 should be.

26 MR. SINGER: One phrase you used in your
27 earlier evidence, Mr. Legge, was "nobody could attend
28 all of the hearings..." and I was glancing over this
29 Exhibit that was filed and I notice that -- well, Mr.
30 Hamilton, I have used his name earlier, Mr. Hamilton

1 attended 90 to 95% of the hearings and I wondered how
2 you could -- if you meant that statement as applying to
3 all Commissioners or to you specifically because you felt
4 that you had different duties or more comprehensive
5 duties than Mr. Hamilton.

6 THE WITNESS: I don't think that I have
7 more comprehensive duties than Mr. Hamilton and he too
8 is required to put full time at the Workmen's Compensation
9 Board. I think we have slightly different duties and
10 yet we have many very similar duties, and the same goes
11 for Mr. Decker with the distinction from the Board he must
12 serve as Chairman of the Board and that is very important
13 role obviously because of the activities that associates
14 with it. But as to the particularity of your question I
15 think that really no one could attend every hearing because
16 he can then not have any holidays nor could he be sick nor
17 could he be away on other Board business. And I particularly
18 think that no Chairman, whether it is me or someone better
19 than I, could attend more than 50 to 75% of the hearings.
20 But this just happens to be my opinion based on a very
21 serious consideration of that problem.

22 MR. SINGER: I think that is all I have
23 for the moment, Mr. Chairman, but I put the Committee
24 in those objectives and particular notes that I intend
25 to return to these other matters at the first possible
26 opportunity.

27 MR. DONNELLY: Thank you, sir.

28 THE CHAIRMAN: Are there any members,
29 others and Committee members that have questions at this
30 time, further questions of the witness?

1 Mr. Deans?

2 MR. DEANS: I just have one question. I
3 want to be absolutely clear. On the matter of the payment
4 of benefit to Mr. Cauley -- it is fairly simple -- you do
5 agree that Mr. Cauley resigned on May 1st; is that correct,
6 Mr. Legge? You agree Mr. Cauley resigned on May 1st of
7 1969?

8 THE WITNESS: I believe that the Order-in-
9 Council of the subsequent January was that he resigned with
10 effect from that date, sir.

11 MR. DEANS: May 1st?

12 THE WITNESS: Yes.

13 MR. DEANS: And you agree that the Board
14 continued to pay Mr. Cauley by Board order what amounted
15 to in the Board terms payment of full salary until the
16 normal retirement date of August, 1971?

17 THE WITNESS: Including the addition 25 days.

18 MR. DEANS: That allowed payment of full
19 salary until August, 1971?

20 THE WITNESS: Yes, I think so, including
21 those 25 days in there.

22 MR. DEANS: And you agree that the only
23 group capable of paying salary, to offsetting a salary to
24 a Board member is the Lieutenant Governor in Council?

25 THE WITNESS: Absolutely, sir.

26 MR. DEANS: Do you agree, Mr. Legge, that
27 in fact the Board did not have any authority to pay Mr.
28 Cauley any salary beyond the date of his retirement?

29 THE WITNESS: No, I couldn't agree with
30 that because of the Board order.

1 MR. DEANS: But you agree the Board doesn't
2 have that right?

3 THE WITNESS: I see the path you are
4 inexpertly leading me along.

5 MR. DEANS: You are trying to avoid going
6 along, are you?

7 THE WITNESS: No, I'm not trying to avoid
8 it, really I am not. The point is that the Board order
9 specifically says what it was that we were trying to do;
10 that we receive from the Minister and it speaks for
11 itself.

12 MR. DEANS: Sir, do you agree that the Board
13 doesn't have the right to pay any person a salary who is
14 not an employee of the Board?

15 THE WITNESS: I guess it depends -- do you
16 want me to give you a decent answer?

17 MR. DEANS: I want the truth.

18 THE WITNESS: What else do I give you?

19 MR. DEANS: I don't mean in terms of you
20 telling a lie, what I mean is I want to know whether it
21 is true that the Board does not have the power to pay
22 a salary, to pay any person employed either full time or
23 part time or under contract to the Board.

24 THE WITNESS: Now you have brought in the
25 other thing, sure, there were contracts, there were
26 consultancies, there was part time, there were many things
27 as a reward for service.

28

29

30

1 MR. DEANS: Do you agree you can't pay
2 for other than services rendered?

3 THE WITNESS: In the case of Mr. Cauley
4 we were precisely paying for services rendered by allowing
5 him to be paid for his accumulated sick and holiday time.

6 MR. DEANS: But that isn't the point. The
7 Board thought ---

8 THE WITNESS: Well, sir, you say so ---

9 MR. DEANS: No, it isn't the point that
10 I am asking. It may be to you an important factor in
11 coming to the conclusion you came to.

12 THE WITNESS: No, this is what we did,
13 sir.

14 MR. DEANS: That's right.

15 THE WITNESS: Now, we could be wrong but
16 this is what we did and I have never laid claim to
17 infallibility. I am simply saying to you as patiently
18 and as accurately as I can recall, and I believe in this
19 system -- I am not fighting the system -- but as
20 accurately and as patiently as I can muster, we did what
21 we did because we believed that Mr. Cauley had this
22 entitlement for holidays and sick leave and the Board
23 order was rendered accordingly. Subsequently, in January,
24 the following year, there was an Order-in-Council but
25 prior to this Board order, sir, there was dealing with
26 the Minister and this was clearly clear.

27 MR. DEANS: Well, Mr. Legge, like you
28 we are being very patient and I am being very patient
29 too, in that I sometimes feel just a mite aggravated
30 about the way things turn out.

1 THE WITNESS: I hope not at my cost, sir,
2 because I am trying to answer your questions time after
3 time.

4 MR. DEANS: (inaudible)

5 THE CHAIRMAN: Witness and Mr. Deans, we
6 are not going to allow another dialogue to take place.
7 We have covered ground that we have covered before and
8 I feel this Committee, in connection with counsel, will
9 be in a position to sort out when the time comes -- now
10 if you have further questions you can make them at this
11 time.

12 MR. DEANS: No, sir.

13 MR. LEWIS: If you can sort this out,
14 Mr. Chairman, you are a Solomon, and you are not a
15 Solomon.

16 THE CHAIRMAN: Mr. Ferrier?

17 MR. GOOD: There is enough testimony on
18 the record, Mr. Chairman, now we can draw our conclusion
19 from the testimony that is on the record on this very
20 point and I don't think by repeating it again and again
21 we are going to get anything better than what is already
22 on the record.

23 THE CHAIRMAN: Mr. Ferrier?

24 MR. FERRIER: I just have one brief
25 question. Was there ever any consideration given before
26 this Board order was made of granting Mr. Cauley a lump
27 sum payment rather than do it in this ---

28 THE WITNESS: No, sir. It never entered
29 my mind.

30 THE CHAIRMAN: Mr. Allan?

1 MR. ALLAN: Mr. Chairman, I have just
2 one question that hasn't been asked before.

3 MR. DEANS: It can't be pertaining to this
4 matter then.

5 MR. ALLAN: And that is, was your decision
6 to allow Mr. Cauley to use up all his sick benefits, was
7 this based on a certificate from a doctor that he was
8 in ill health?

9 THE WITNESS: Certainly not in the time
10 that the Board order was put. I can only speak for
11 myself but I will encroach on Mr. Johnson's mind. It
12 was certainly my belief that it was shared by Mr. Johnson
13 and by the people who drew the order that he was in fact
14 in ill health.

15 MR. ALLAN: But you had no certificate
16 from a doctor?

17 THE WITNESS: I had no certificate.

18 MR. ALLAN: Or anyone?

19 THE WITNESS: It subsequently transpired
20 that the chief medical officer of the Board had in --
21 and I am speaking from memory and I don't wish to be
22 trapped on this, but I believe it was in April that the
23 chief -- the director of medical services of the Board
24 did have communication with Mr. Cauley's family doctor
25 so it would be prior to that.

26 THE CHAIRMAN: Mr. Mack?

27 MR. MAECK: Just to go a little further
28 into that, Mr. Legge, did Dr. Steele have a medical
29 certificate when he was drawing sick benefits before his
30 retirement?

1 THE WITNESS: I think not, sir. I think
2 it was well known about Dr. Steele's rather serious
3 physical disability.

4 MR. MAECK: In other words, the same
5 physical procedure was followed as far as a medical
6 certificate was concerned in both cases?

7 THE WITNESS: Yes.

8 MR. MAECK: Thank you.

9 THE CHAIRMAN: Mr. Counsel?

10 MR. DONNELLY: Mr. Chairman, I am not sure --
11 this is out of my own memory but Mr. Legge, I believe,
12 read from the Board order of July the 6th to 9th and I
13 wasn't sure if it was all read and if that is so, I wonder
14 if it could be filed, sir.

15 MR. GOOD: I was told later this morning
16 that that was Exhibit 3.

17 MR. DONNELLY: Is it on the record?

18 MR. GOOD: When I brought it up this
19 morning and this is the first we heard about it, I was
20 told by counsel this was Exhibit 3.

21 MR. AUSTIN: It was read some weeks ago,
22 I believe, but whether it became an Exhibit I have no
23 idea.

24 MR. DONNELLY: Could it be filed?

25 MR. AUSTIN: Yes, we could file it.

26 MR. DONNELLY: Mr. Legge, I have been
27 asked by Mr. Cauley's counsel to put certain questions
28 to you, sir: I think you told us that until recently
29 you considered that Mr. Cauley had resigned for health
30 reasons; is that correct, sir?

1 THE WITNESS: Yes.

2 MR. DONNELLY: Did you have any specific
3 knowledge as to his health problems at the time of his
4 resignation?

5 THE WITNESS: Nothing specific except a
6 vague recollection of this discussion between Dr. Powell
7 and the family doctor.

8 MR. DONNELLY: Relative to heart or blood
9 pressure or something?

10 THE WITNESS: The other thing was that I
11 know -- this may not be significant but I offer it for
12 what it is worth.

13 MR. DONNELLY: Just a moment, sir. I
14 really don't want to interrupt you but if you are going
15 to do other than answer me I prefer that you didn't. If
16 it is something voluntary, if you are going to volunteer
17 it, I prefer that it maybe stand over until later.

18 THE WITNESS: But it had to do with his
19 health.

20 MR. DONNELLY: All right, thank you.

21 THE WITNESS: I'm sorry, I didn't want to
22 put you off. I am not trying to. How will I answer
23 other questions?

24 MR. DONNELLY: Perhaps we are at cross
25 purposes. I am just simply saying if you are answering,
26 please do so. If you are going to volunteer something
27 else, could it wait until I am finished?

28 THE WITNESS: After his heart attack,
29 Dr. Steele and I thought that Mr. Cauley should not drive
30 from Ancaster to Toronto and a driver was provided for

1 him as long as he felt that he needed it and the driver
2 continued to serve until Mr. Cauley actually left the
3 Board.

4 MR. DONNELLY: Thank you. Reference
5 was made by you, sir, just recently I think you corrected
6 the April memo relative to Mr. Cauley's ---
7
8

9 THE WITNESS: It was certainly not brought
10 to my attention, sir.

11 MR. DONNELLY: Going back to the question
12 of the Board order and whether it got to Mr. Cauley,
13 sir. We have abundantly covered the fact that you signed
14 it. The question that I am asked to put is, did you do
15 anything in order to see that Mr. Cauley got the order or
16 a copy of it?

17 THE WITNESS: No, I did not. It was my
18 firm belief, and still is, that it was delivered to the
19 Minister and that is all that I can say about it.

20 MR. DONNELLY: I am instructed to inquire,
21 was there a breakdown in the Board's administration
22 resulting in no delivery to Mr. Cauley?

23 THE WITNESS: I can say that had we thought
24 for one second that he didn't have this information, we
25 would have -- and if that's a breakdown then it has to
26 be a breakdown. But it certainly was not what anyone
27 would ever have thought.

28 MR. DONNELLY: I am instructed to inquire
29 whether you know whether or not the Minister received
30 a copy of that order.

1 THE WITNESS: I believe that he did and
2 when I can't tell you.

3 MR. DONNELLY: I see. Following along
4 that same line, was there some breakdown in the adminis-
5 tration that would prevent the Minister from getting it
6 or getting it promptly?

7 THE WITNESS: No, sir. My firm recollection
8 is that it was given to him very approximate to the time.

9 MR. DONNELLY: Now I am further instructed
10 to inquire, sir -- Mr. Lapkin's recollection of your
11 evidence was that there was no conflict or no known
12 conflict amongst the Board in the spring of 1969 and
13 Mr. Lapkin further recalls the Minister told us there was
14 a conflict and he was so advised and this was one of the
15 reasons the Minister wanted to see Mr. Cauley. Do you
16 agree with that and, if so, can you reconcile it, sir?

17 THE WITNESS: I have described the two
18 conversations that I had in any -- outside of the Board-
19 room with Mr. Cauley. I stand by that; that is a very
20 accurate recollection. To me, conflict is an exacerbation
21 of personal dissatisfactions and that sort of thing. There
22 was never any arguments, any unpleasantness between
23 Mr. Cauley and me at any time. There were discussions
24 on those two occasions. My idea of conflict is an
25 argument.

26 MR. DONNELLY: Now, Mr. Legge, going back
27 again to the consultancy fee referred to in the Board
28 order ---

29 THE WITNESS: Yes, sir.

30 MR. DONNELLY: Mr. Lapkins recollection

1 is you were in consultation with the Minister either at
2 or about the time the order was passed.

3 THE WITNESS: Yes, sir.

4 MR. DONNELLY: The Minister didn't appear
5 to have any knowledge of the consultancy provision in
6 the order. Can you make any comment on that as to why
7 he didn't, sir, if you were in contact right at that
8 time?

9 THE WITNESS: I would only be guessing.
10 I have no idea why he doesn't recall that.

11 MR. DONNELLY: Do you know if it was
12 specifically brought to his attention, sir?

13 THE WITNESS: The order was specifically
14 brought to his attention.

15 MR. DONNELLY: By sending him a copy or
16 otherwise?

17 THE WITNESS: My belief, to the best of
18 my knowledge, is by delivering him a copy to his office.

19 MR. DONNELLY: There is no record of that
20 to fix the date or anything, I take it?

21 THE WITNESS: No.

22 MR. DONNELLY: Mr. Lapkin
23 asked me to point out to you the Minister, according
24 to his recollection, did not have a copy of
25 it in September.

1 Do you have any comment about that, sir?

2 THE WITNESS: Who did not?

3 MR. DONNELLY: Mr. Lapkin asked me to
4 point out the Minister apparently did not have a copy
5 of the Board order in September when he wrote, I think,
6 on September 9th.

7 THE WITNESS: '69?

8 MR. DONNELLY: Yes.

9 THE WITNESS: Oh, I can't even guess about
10 that. It would certainly have been ---

11 MR. DONNELLY: A further matter I am
12 instructed to inquire about, sir, Miss Bancroft indicated
13 to us that the sworn statement taken from her in the
14 form of an affidavit was taken on instructions either
15 from the Board or yourself, sir. Mr. Lapkin says
16 specifically at your instruction. Do you recall that,
17 sir?

18 THE WITNESS: I recall Miss Bancroft
19 being at the Board with the full Board and with Mr.
20 Eric Lane, the Board's counsel. I can specifically say
21 that I never instructed Mr. Lane how to do his job. The
22 instruction that was given on behalf of the Board was
23 to inquire into and do whatever legal things he had to
24 do. I have no recollection whatever and I think it would
25 be completely repugnant to my way of dealing with a
26 brother lawyer to tell him how to do his job.

27 MR. DONNELLY: Well, are you able to
28 recall, sir, whether or not you did give any specific
29 instruction about the Bancroft affidavit?

30 THE WITNESS: No, I certainly did not

1 give any specific instruction.

2 MR. DONNELLY: You are simply going back
3 and saying, "My conduct probably would have been so,"
4 is that what you are saying?

5 THE WITNESS: I am saying my conduct would
6 probably be so, but even further than that I am saying
7 that I did not give any specific instruction any more
8 than I instructed him to take one from Hollingworth.

9 MR. DONNELLY: I am asked ---

10 THE WITNESS: You can't have two lawyers
11 on the same case.

12 MR. DONNELLY: I am asked to inquire, sir,
13 if you specifically disagree with Miss Bancroft if her
14 evidence is that the affidavit by her was taken on your
15 instruction?

16 THE WITNESS: I think that she must have
17 forgotten because I certainly would not have given that
18 instruction.

19 MR. DONNELLY: Now finally, sir, Miss
20 Bancroft indicated in her evidence -- I think she said
21 to the Board, "If it's my fault there is an error I'll
22 pay for it," or something to that effect. Do you recall
23 anything like that, sir?

24 THE WITNESS: I can't recall, but I don't
25 find it unusual as a reaction of Miss Bancroft, but I
26 don't really remember it at all.

27 MR. DONNELLY: I am asked or instructed
28 to inquire this: If she did say that would you have gone
29 on instructing Mr. Cauley to make a settlement or would
30 you have assumed it was a Board matter then?

1 THE WITNESS: They hypothetical thing --
2 I think that I would have thought, and I think the Board
3 was with me that it would have to be investigated as a
4 Board matter.

5 MR. DONNELLY: I see. Thank you very much.
6 Tell me, sir, were any consultants
7 appointed by the Board in 1971?

8 THE WITNESS: I don't know, but we could
9 find out. The Board has a good deal of consultants in
10 one way or another. What kind of consultant is it?

11 MR. DONNELLY: I think it is relative to
12 the appointment that might have been offered to Mr.
13 Cauley, sir. Could that information be made available?

14 THE WITNESS: I can't remember really, but
15 I think there were -- well I guess it was the year before
16 about the economics and rehabilitation, for example, and
17 there were medical consultancies from time to time.
18 There were none along the lines that you envisage if I
19 understand the question correctly.

20 MR. DONNELLY: Thank you very much, sir.

21 THE CHAIRMAN: I take it then that we
22 have completed our questioning of this witness at least
23 for the present time?

24 Thank you, Mr. Legge.

25 THE WITNESS: Thank you, sir.

26 THE CHAIRMAN: You are excused until
27 required again.

28 Do you want to call your next witness?

29 MR. DONNELLY: Mr. Chairman, a great part
30 of the last examination dealt with the retirement and

1 early retirement, superannuation. I had intended going
2 on with Mr. MacDonald but I would be guided by the
3 Committee's wishes. Do you want to hear Mr. Betts on
4 this matter or do you want to go on?

5 THE CHAIRMAN: I think we've spent consider-
6 able time on it and I think it should be cleared up.

7 MR. DONNELLY: With Mr. Betts?

8 THE CHAIRMAN: Is it the wish of the
9 Committee to hear Mr. Betts?

10 MR. DEANS: Yes, we will hear Mr. Betts.

11 MR. SINGER: Perhaps his evidence will
12 be considerably short.

13 MR. DONNELLY: I would have thought so.

14 MR. SINGER: Let's deal with the short one.

15 JAMES G. BETTS, Sworn:

16 EXAMINATION BY MR. DONNELLY:

17 Q. Mr. Betts, your occupation is, sir?

18 A. I am the Director of Employee
19 Relations, principal officer of the Board.

20 Q. And we have been told by earlier
21 witnesses that you might explain to us the retirement
22 policy of the Board, the early retirement policy of
23 the Board, as they relate to the members of the Board
24 and also to employees of the Board.

25 Can you help us with that, sir?

26 A. Fine; thank you.

27 Q. Tell me, are you prepared to make
28 some statement on this or would you prefer that I go
29 with questions and answers, sir?

30 A. On this particular thing I do believe

1 that it would be better if I just gave a presentation
2 on the leave of absence.

3 Q. The matter I wanted to direct your
4 mind to was the question of retirements and early retire-
5 ments and the accumulation of holiday time and the
6 accumulation of sick time, the significance if any of
7 a medical certificate relative to a person's rights to
8 draw on these accumulations.

9 Are you prepared to deal with that, sir?

10 A. Yes, that was what I was going to
11 talk about, sir.

12 I guess I was using a semantic difference.
13 Early retirement is in the superannuation plan and I
14 assumed that the question you are asking me is this
15 business about going out early on attendance and
16 vacation credits and the Board order refers to that as
17 a paid leave of absence.

18 MR. ALLAN: Mr. Counsel, could he just
19 give us an outline of your retirement policy? Members
20 of the Board -- not members of the Board, but members
21 of your staff generally and deal with your early retire-
22 ment following that.

23 THE WITNESS: I think this is the present-
24 ation I was going to make.

25 MR. DONNELLY: Q. Start in then, sir,
26 would you please?

27 We will start in then, please, if you
28 would?

29 A. The employees and Board members
30 accumulate attendance credits at the rate of one and a

1 half days per month of service and a month in which full
2 salary is paid is considered as a month of service.

3 Employees of the Board are entitled to
4 vacation credits as follows: Up to 15 years of service
5 three weeks per year; 15 or more is four weeks per year;
6 and in the 25th year of service only one additional
7 week. The Board members receive vacation of four weeks
8 per year and the additional week in the 25th year only.

9 A person who leaves the Board after three
10 years of service is entitled to a cash payment equivalent
11 of 50% of unused attendance credits with a maximum
12 payment of six months salary.

13 MR. GOOD: : Say that again?

14 THE WITNESS: A person leaving the Board
15 after three years of service is entitled to a cash
16 payment equivalent to 50% of the unused attendance
17 credits or the maximum payment of six months salary.

18 MR. DEANS: Mr. Betts, I don't want to
19 interrupt you, but if you come to a point where there
20 is a deviation -- where a distinction is to be made
21 between employees and Board members will you make it?
22 In other words, if there is a point only to employees
23 and not to Board members or only to Board members and
24 not to employees, would you make that distinction for
25 us?

26 THE WITNESS: I will, Mr. Deans, thank you.

27 The distinction I have made so far is only
28 in the vacation policy where the Board members get one
29 month.

30 MR. DONNELLY: Q. Just before you go on,

1 sir, what is the significance of the words "attendance
2 credits"?

3 A. It is sometimes used as sick leave
4 credits, but officially referred to as attendance credits
5 and they are accumulated at one and a half days a month.

6 Q. That is equivalent to sick leave
7 as we called it earlier?

8 A. Yes.

9 MR. ALLAN: Could you repeat what happens
10 after the end of three years? Was that for the staff or
11 for the Board?

12 THE WITNESS: Both. After you have
13 accumulated three years of service, if you leave the
14 service of the Board you are entitled to a cash payment
15 which is 50% of any unused attendance credits with a
16 maximum payment of six months salary.

17 MR. MAECK: If you had three years of
18 service you would not be able to reach the maximum?

19 THE WITNESS: If you only had three years
20 of service you would not be able to reach the maximum,
21 but if you had 20 years of service you might. A person
22 leaving the Board, of course, is entitled to full
23 vacation credits that they have not used.

24 MR. ALLAN: Well, how do you settle that?

25 THE WITNESS: Normally when a person
26 retires they get -- not retires, but leaves the Board
27 they get the full cash for their vacation.

28 MR. GOOD: Just the Board gets their
29 full vacation credits?

30 THE WITNESS: Any employee leaving the

1
2 Board if they have any unused vacation credits they
3 will get paid in cash.

4 MR. LAWLOR: Lump sums?

5 THE WITNESS: That is true.

6 MR. DEANS: May I ask you, sir, if that
7 applies also at the time of retirement if normal retire-
8 ment age has been reached?

9 THE WITNESS: If a person works until,
10 for instance, age 65 and has some vacation credits left
11 they would get paid in cash.

12 MR. DEANS: And the same thing applies
13 in regard to attendance credits, they would get 50%
14 up to six months?

15 THE WITNESS: That is correct, sir.

16 MR. ALLAN: Is there no limit on the
17 unused holiday credits?

18 THE WITNESS: Unused vacation credits?

19 MR. ALLAN: Yes.

20 THE WITNESS: There is -- I wonder if I
21 could just clarify the question to make sure I answer
22 the question you are asking?

23 MR. ALLAN: Well supposing a man accumu-
24 lates six months of unused vacation?

25 THE WITNESS: We have a rule that normally
26 two years of credits is the most that you can accumulate.

27 MR. DEANS: Does that apply to the Board
28 in addition to ---

29 THE WITNESS: That particular order goes
30 back quite some time and that is compared to the em-
ployees now that you've raised that question because---

1 MR. ALLAN: Well this is very important,
2 isn't it?

3 THE WITNESS: Which is very important,
4 sir?

5 MR. ALLAN: When I asked the question
6 if there was no limit to the number of vacation credits
7 that would be paid for and then you say there is a limit.
8 Now which is ---

9 THE WITNESS: I say there is a policy in
10 effect which says that employees -- and as Mr. Deans
11 has mentioned I am not -- I am distinguishing from
12 Board members -- there is a policy which says that so
13 far as attendance -- vacation credits are concerned
14 should only accumulate two years of unused credits.

15 MR. DEANS: What is the policy in regard
16 to Board members in that regard, sir?

17 THE WITNESS: I know of no policy governing
18 Board members on that.

19 MR. DONNELLY: Q. Does the policy from the
20 employees originate from some document, sir?

21 A. There are a variety of Board orders.

22 MR. GOOD: Would that be from a Board
23 order?

24 THE WITNESS: The one that I have just
25 referred to, this maximum of two years, does go back,
26 and I have a copy in my documents here -- it is a fairly
27 ancient one, I think probably '52 or '54, but yes, it
28 is ---

29 MR. ALLAN: Do you not have these in a
30 document that is relatively available to everyone?

1 THE WITNESS: I am sure I could get the
2 Board order, sir.

3 MR. ALLAN: I mean to your employees.

4 THE WITNESS: We have a benefit booklet
5 that is available for employees.

6 MR. ALLAN: Is this stated in that
7 booklet?

8 THE WITNESS: I believe it is.

9 THE CHAIRMAN: While Mr. Betts is looking
10 for that booklet, I am wondering what the Committee
11 would prefer. Would you like Mr. Betts to run through
12 the policy and then deal with it point by point or would
13 you prefer to deal with it point by point as it goes
14 along?

15 MR. DONNELLY: I am inclined to think it
16 is better to get it straight as we go. That is subject
17 to the Committee's view.

18 THE CHAIRMAN: It is a little difficult
19 keeping the questioning going.

20 THE WITNESS: Yes, it is set out in our
21 booklet, sir, under "Comments". "The maximum accumulation
22 of vacation with pay is two years entitlement." Page 4.

23 MR. GOOD: So to get that vacation you
24 would need 24 years?

25 MR. SINGER: Thirty years.

26 THE WITNESS: This particular order is
27 not relating to Board members and employees.

28 MR. SINGER: It would take an employee
29 30 years, wouldn't it, to get 105 weeks, three weeks for
30 the first 15 and four weeks for the second?

1 MR. MILLER: Two years entitlement would
2 be a maximum of ten weeks.

3 MR. SINGER: Sixteen and 45 is 105.

4 MR. ALLAN: Two years entitlement would
5 be either six weeks or seven weeks or eight weeks.

6 MR. MILLER: It is two years entitlement.

7 MR. SINGER: Is it two years entitlement
8 or two years credit?

9 MR. MILLER: Two years entitlement.

10 THE WITNESS: It is two years entitlement.
11 You are entitlement to three weeks per year and I take
12 one week or two weeks I have a week left over and next
13 year I would have three weeks plus my one is four. But
14 six weeks is the most that I can accumulate and if I
15 get up to six weeks I would have to ---

16 MR. SINGER: Not two weeks, six weeks pay,
17 six weeks. Two years vacation entitlement.

18 MR. GOOD: Oh, two years entitlement.

19 THE CHAIRMAN: This is the thing that
20 bothers me, counsel, you are having questions directed
21 from many areas at one time and it is making it a little
22 difficult for those transcribing the proceedings.

23 MR. DONNELLY: I will have to leave it
24 with you, Mr. Chairman, with respect, to do it the other
25 way.

26 THE CHAIRMAN: Mr. Allan?

27 MR. ALLAN: Well I was just going to say
28 that there is still a misunderstanding as to what two
29 years entitlement is.

30 THE WITNESS: If I have three weeks of

1 vacation coming to me, two years entitlement is six weeks.
2 If I have four weeks entitlement, four weeks per year
3 and two weeks entitlement is eight weeks.

4 MR. ALLAN: Yes, and if you don't use any
5 of those, the next year you lose them?

6 THE WITNESS: Well, we try to put the
7 pressure on them to take them.

8 MR. ALLAN: But if you don't take them they
9 are lost?

10 THE WITNESS: There are the odd exceptions.
11 I will be giving you information, sir, on the people that
12 have gone on early leave and you will have an opportunity
13 of seeing what they had. In other words, the 50 odd people
14 that have been caught up in this, I'll -- I will be providing
15 you with that information and you will see what the situation
16 was. If this answers -- you didn't ask me a question but
17 I kind of thought that might be on your mind.

18 MR. ALLAN: We will wait.

19 THE WITNESS: Well, we will be providing
20 you with that.

21 THE CHAIRMAN: Proceed, Mr. Betts.

22 THE WITNESS: Normal retirement under the
23 superannuation plan is age 65. After ten years of
24 service, early retirement can be arranged at age 55 onwards.
25 So that anyone having ten years could retire at age 55,
26 56, 57. A person who is nearing retirement age may be
27 allowed a paid leave of absence to the extent of unused
28 attendance credits and vacation credits and at the end
29 of that leave of absence commence as a pensioner.

30 MR. DONNELLY: Q. Again, please?

1 A. The person nearing retirement age
2 may be allowed a paid leave of absence to the extent of
3 unused attendance credits and vacation credits and at
4 the end of a leave of absence ---

5 MR. ALLAN: All those -- all right.

6 THE WITNESS: And at the end of the leave
7 of absence, commence as a pensioner.

8 MR. ALLAN: Paid in full?

9 THE WITNESS: I was just about to read
10 the final paragraph which I think answers that question,
11 sir. Employees on such leave of absence continue to
12 receive their regular salary cheque from which the regular
13 reductions -- deductions are made.

14 MR. DEANS: The question there, sir, is
15 do people who are on a leave of absence continue to
16 accumulate sick attendance credits?

17 THE WITNESS: Yes, they do. They are
18 treated the same as though they were on vacation or on
19 a leave of absence.

20 MR. DEANS: May I ask you how you -- I
21 don't know if you are able to answer the question, but
22 how do you rationalize paying a person attendance credits
23 when they are not in attendance; that the fact that they
24 are on a leave of absence means that even if they were
25 sick they wouldn't be going to work in any event; they
26 certainly couldn't lose; how would they then continue to
27 accumulate? On what basis? Is that on a negotiated
28 matter or is that a policy?

29 THE WITNESS: No, sir, that is a regular
30 practice that any employee that is out on vacation, for

1 instance, getting full pay, receives his accumulations
2 of credits. A person who is out sick, using up attendance
3 credits, having his salary maintained, will accumulate
4 attendance credits. So as long as -- this is the regular
5 practice I am referring to -- so long as the person is
6 receiving his full salary, be it vacation or being off
7 sick, the salary is continued and then the credits
8 accumulate.

9 MR. ALLAN: He doesn't need to be sick,
10 though?

11 THE WITNESS: I am talking about, though,
12 the regular practice, sir.

13 MR. ALLAN: I see.

14 THE WITNESS: That is, if I were to go
15 out sick right now for a month and I had enough attendance
16 credits to keep my salary going, I would accumulate
17 attendance credits.

18 THE CHAIRMAN: Mr. Deans?

19 MR. DEANS: Do you realize ---

20 MR. ALLAN: This would be ---

21 I am sorry.

22 MR. DEANS: That is not a normal practice
23 that attendance credits are generally given for attendance
24 and that every person -- and attendance means being at
25 work on a normally scheduled pattern.

26 THE WITNESS: Would you like me to comment
27 on that?

28 MR. DEANS: I would like you to.

29 THE WITNESS: I very recently -- last year
30 left the Federal Government and they accumulate so long

1 as you have ten days -- I think it is ten days of salary
2 in a month -- as long as you get paid for ten days in
3 a month you get full accumulation. I can't speak with
4 authority on the Ontario Government but it is my under-
5 standing that there is a provision for accumulating
6 there while you are out sick receiving pay.

7 THE CHAIRMAN: Mr. Good?

8 MR. GOOD: Mr. Chairman, to clear it up
9 then, it would be fair to say that when one accumulates
10 your day and a half it would not matter as long as you
11 are drawing salary for that -- at least equal to your
12 salary whether you are there or not?

13 THE WITNESS: That is correct.

14 MR. GOOD: So it is really salary credits
15 you are getting. If you are getting paid, you are getting
16 another day and a half in each month?

17 MR. DEANS: It is not the practice
18 certainly in the municipal service; it may well be ---

19 My knowledge of the practice is that a
20 person is given sick credits on the basis of his
21 attendance at work and that if a person is sick he draws
22 from his dock but does not accumulate.

23 THE WITNESS: I am not familiar with the
24 municipal services but I am reasonably clear on the
25 federal which I just left and I believe, and I am not
26 speaking as an authority for the provincial government,
27 but I believe that there is provision for accumulation
28 there.

29 You may think this is more but we have
30 other practices that are less liberal, but in any event

1 I believe this is not unusual.

2 MR. ALLAN: You are just getting up now
3 to the time when a person retires, you are speaking --
4 you have been speaking about sickness or vacation credits
5 while they are still working; is that correct?

6 THE WITNESS: Yes. And I am saying, sir,
7 that while they are on this paid leave of absence
8 immediately prior to going on pension that the same
9 practice applies to them as applies to other employees.

10 MR. ALLAN: Any pension? Any pension,
11 early pension?

12 THE WITNESS: It is paid leave of absence
13 usually, attendance credits and vacation credits that we
14 are referring to, they go out on pension at the end of
15 that and that could be at age 65 or it could be at age 60
16 or it could be at age 62 or it could be at age 58,
17 depending on whether or not the person has elected to
18 accept early retirement.

19 MR. DEANS: On the matter of the time when
20 they are receiving the sick credits on a leave of absence
21 -- when I asked the question of the Chairman he referred
22 it to one of the experts -- would a person be able or
23 entitled within the application of the regulation to
24 seek and obtain alternative employment and receive a salary
25 or wage from that employment and, in addition, continue to
26 draw on the basis of his leave of absence?

27 THE WITNESS: I guess it makes a hypothetical
28 question. We really don't go out to check with them to see
29 if they are working or not. I would assume that some might,
30 but as I say, we haven't checked into that.

1 THE CHAIRMAN: We are adjourned until
2 8:00 o'clock this evening.

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4 --- Upon recessing at 6:00 p.m.
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1 --- Upon resuming at 8:05 p.m.

2 THE CHAIRMAN: I call our meeting to order
3 and resume where we left off. At that point Mr. Betts
4 was outlining the attendance procedures or whatever you
5 want to call them.

6 JAMES G. BETTS, resumed:

7 THE WITNESS: Yes, I just finished, I
8 believe, Mr. Chairman.

9 THE CHAIRMAN: Have you gone through your
10 entire presentation?

11 THE WITNESS: I thought so, unless there
12 were some questions.

13 THE CHAIRMAN: Counsel, did you have some
14 questions?

15 MR. DONNELLY: Q. Witness, you spoke of
16 the -- in the case of early retirement of the vacation
17 days continuing to accumulate during that interval, sir?

18 A. Yes, I did, sir.

19 Q. Do the holidays accumulate as well?

20 A. Yes, they do. I hope I made the
21 point clear that it accumulated in this sort of early
22 leaving in the same way that it does if a person is out
23 in the normal course. Like if I was out sick or if I
24 was on vacation, so it is the same procedure.

25 Q. Would it be possible for you to sort
26 of file a copy of the memo you used in order to make
27 this presentation?

28 A. Yes, it would, sir.

29 Q. And also you referred to some booklet
30 there, sir.

1 A. Yes.

2 Q. The yellow book I think it is.

3 May that be filed?

4 ---EXHIBIT NO. 67: Memo read by Mr. Betts to make his
presentation.

5 ---EXHIBIT NO. 68: Workmen's Compensation Board of Ontario
6 Employee's benefits.

7 THE WITNESS: Yes, it certainly may.

8 THE CHAIRMAN: For the benefit of the
9 Committee, Mr. Betts, how is your name spelled?

10 THE WITNESS: B-E-T-T-S, thank you.

11 THE CHAIRMAN: Mr. Allan?

12 MR. ALLAN: I think there was still some
13 lack of understanding with respect to the vacation credits.
14 We were going over dinner, some of the members of the
15 Committee were discussing it and we understood you to say
16 that the maximum number of days that could be accumulated
17 was two years entitlement.

18 THE WITNESS: That is correct, sir, that
19 is our policy.

20 MR. ALLAN: That is your policy. Well do
21 you now follow your policy then?

22 THE WITNESS: Yes, we do, and I think I
23 have mentioned to you that if you wanted information on
24 the people who have already been retired I have that
25 available.

26 MR. ALLAN: Well, supposing the man goes --
27 and I don't know what your age is, how many years constitutes
28 a full pension ---

29 How many years to you have to contribute?

30 THE WITNESS: The maximum is 35 years at 2%.

1 MR. ALLAN: Yes, and you have to -- 2% for
2 each year?

3 THE WITNESS: That is correct, right.

4 MR. ALLAN: Well then you -- there was
5 some misunderstanding as to whether or not you had said
6 that when the employee retires that a record has been
7 kept through all those years of his vacation benefits
8 and that he does or does not get them when he retires at
9 the end of his employment, not an early retirement, just
10 a normal retirement.

11 THE WITNESS: Regular retirement, any of
12 his unused vacation credit will be paid to him in cash.

13 MR. ALLAN: Well then really you don't --
14 you say you can only accumulate two years entitlement but
15 that isn't really the fact is it?

16 THE WITNESS: I don't follow you there.
17 Sorry, sir.

18 MR. ALLAN: I think everybody else does.

19 THE WITNESS: The entitlement -- well, okay.

20 MR. DEANS: I don't, so that's two.

21 MR. ALLAN: I understood Mr. Betts to say
22 the maximum number of days you could accumulate was two
23 days entitlement.

24 MR. DEANS: That was four weeks, five weeks
25 or six weeks.

26 MR. ALLAN: Four weeks or six weeks.

27 But on the other hand he says when he
28 retires he has accumulated these benefits all through the
29 year -- up to a maximum of two years.

30 MR. DEANS: Up to a maximum of eight weeks?

1 MR. ALLAN: Only eight weeks?

2 MR. DEANS: Yes.

3 THE WITNESS: In this case I am looking
4 at at the moment, sir, it is nineteen and one-third days
5 which is less than four weeks.

6 MR. ALLAN: Well then is it different for
7 the man on early retirement?

8 THE WITNESS: The same principles apply.
9 The person on early retirement may take his early paid
10 leave of absence using up those credits in which case he
11 obviously can't get them in cash. But if he works right
12 through to retirement date and does not take a paid leave
13 of absence using up those credits then he will get them
14 in cash.

15 MR. ALLAN: Well then, are you going to
16 show us that these people who retire early, these 50
17 people, how many credits they got?

18 THE WITNESS: I have the information here,
19 sir.

20 MR. ALLAN: Could we have that now?

21 THE WITNESS: Fine.

22 MR. DEANS: Before you give it, just one
23 point on the same thing. If a person gets early retirement
24 does he use up his vacation credits and then his sick leave
25 credits or does he use his sick leave credits to a maximum
26 and then his vacation credits?

27 THE WITNESS: I believe it to be the latter,
28 that he uses his attendance credits first, and then goes
29 to his vacation credits.

30 MR. DEANS: It is conceivable that he could

1 have vacation credits left over which would accrue to him
2 on retirement in cash?

3 THE WITNESS: Yes, there are some cases
4 where that happens.

5 MR. DEANS: And it would be to his advantage
6 to use sick leave or attendance credits first because he
7 is only entitled to 50% of those in cash upon retirement
8 while with his holiday credits he is entitled to 100%.

9 THE WITNESS: That is correct, sir.

10 MR. DEANS: --- on retirement.

11 THE WITNESS: Probably the easy answer is
12 that normally they tend to have them come out at the same
13 time so that they retire without them, but it does sometimes
14 happen.

15 MR. DEANS: In the numbers of cases you
16 are going to present to us in just a moment, do you have
17 any instance where a person received a pay cheque on a
18 regular basis up to the maximum credits that he had
19 accumulated after he had tendered and had his resignation
20 received and accepted?

21 Do you want it rephrased?

22 THE WITNESS: When you use the word
23 "resignation" we don't get into the question of resignation.
24 These people request permission to have a paid leave of
25 absence and it doesn't become a resignation.

26 MR. DEANS: Let me put it to you -- let me
27 put a parallel for you so it will be clear. I am now
28 referring to the situation of Mr. Cauley quite clearly
29 and I want to know if there is another circumstance
30 anywhere in the Board's operations similar where resignation

1 was tendered and where payments were then made subsequent
2 to the resignation being accepted on a regular monthly
3 or weekly or bi-weekly basis as his salary was normally
4 paid until his accumulated attendance credits and vacation
5 credits were spent?

6 THE WITNESS: I can speak for the employees
7 and I can say that not to my knowledge.

8 MR. DEANS: Thank you.

9 MR. ALLAN: Just before you get into these
10 early retirements, could I make it clear as to whether or
11 not you create sick credits on the same basis as vacation
12 credits, that is, is a man allowed to have full time
13 for the sick credits that he didn't use by way of leave
14 of absence even when he isn't sick?

15 MR. DEANS: Yes.

16 THE WITNESS: Yes, you are referring to
17 this paid leave of absence immediately prior to going on
18 pension?

19 MR. ALLAN: Yes.

20 THE WITNESS: Yes, sir. They are entitled
21 to use up their totality of credits which would be both
22 attendance credits and vacation credits.

23 MR. GOOD: Mr. Chairman?

24 THE CHAIRMAN: Mr. Good?

25 MR. GOOD: A question, if a person has
26 sufficient attendance credits and vacation credits to pay
27 him a full salary for a year in that year then he would
28 accumulate another 18 days of attendance credits to which
29 he would be paid and another four weeks of vacation credits.

30 THE WITNESS: That is correct, sir.

1 MR. GOOD: And in that four weeks he would
2 require another four weeks of attendance credits and a
3 percentage of the vacation credits.

4 MR. MILLER: I am now confused. I thought
5 I understood what you said earlier, Mr. Betts. You told
6 us that after three years service an employee terminating
7 got a cash payment of 50% of his unused attendance credits
8 up to or equal to six months salary.

9 THE WITNESS: Or maximum of six months, yes.

10 MR. MILLER: That is a cash payment?

11 THE WITNESS: Yes, sir.

12 MR. MILLER: Now, if he elects to retire
13 early is there also a six month limit on the total sick
14 benefit entitlement?

15 THE WITNESS: Not if he takes it out in
16 time.

17 MR. MILLER: So in three years he could use
18 it up?

19 THE WITNESS: Pardon?

20 MR. MILLER: If he had three years
21 conceivably he could use it up?

22 THE WITNESS: Yes, sir.

23 MR. GOOD: On the retirement?

24 THE WITNESS: On his paid leave of absence.

25 I don't want to say retirement, the word retirement appears
26 in the book and I am merely trying to establish the two
27 things.

28 MR. DEANS: There is another matter, sir,
29 that joins the matter of an early retirement or paid leave
30 of absence and that is the payment into something called a

1 long term disability fund. It would strike me as odd that
2 deductions would continue to be made from an employee's
3 salary or from his cheque during the period that he was
4 on a leave of absence, assuming that his leave of absence
5 didn't go beyond the extent of his total credits, and
6 that the Board would continue to deduct something called
7 a long term disability when in fact he will never be able
8 to use it. Why would the Board continue to do that?

9 THE WITNESS: It is very possible that he
10 would need it.

11 MR. DEANS: When would he need it?

12 THE WITNESS: The long term disability
13 payments once they are commenced continue until age 65
14 at which time the Canada Pension Plan takes over so the
15 LTD cuts off at age 65. About a half of these people who
16 are retiring are going on pension at an age earlier than
17 65.

18 MR. DEANS: Yes?

19 THE WITNESS: Fifty-eight, sixty, sixty-two
20 and if they should be disabled prior to going on pension
21 they are covered by LTD and once they establish the claim
22 while they are still under full salary then they are
23 covered by LTD until age 65 which is the protection they
24 have been paying for all through.

25 MR. DEANS: I see. They would be covered
26 then beyond what would be considered to be their
27 retirement age?

28 THE WITNESS: Once the claim has been
29 established -- assuming that they became -- let us assume
30 that they expected to go on pension in January and the

1 previous June they became disabled and the claim is
2 established and that claim so long as he remains dis-
3 abled is payable until age 65, so that he might go on
4 pension at age 60, but he is still entitled to his LTD
5 payments until age 65 so long as he continues to be
6 disabled.

7 MR. DEANS: Thank you.

8 THE CHAIRMAN: Are there any further
9 questions?

10 MR. ALLAN: Mr. Cauley couldn't possibly
11 get any benefit from these payments, could he?

12 THE WITNESS: The benefit that Mr. Cauley
13 would have got, assuming that he became disabled at age
14 64, he would have been entitled to the protection for
15 which he had been paid.

16 MR. ALLAN: Yes, but he already had an
17 agreement to get it until he was 65.

18 THE WITNESS: His salary, yes. That was
19 based -- that is based on using up his attendance credits
20 and vacation credits and we permit if a person is on
21 long term disability to get half pay -- we permit them to
22 use up a half of their credits to augment their pay.

23 MR. ALLAN: Yes, but Mr. Cauley, you had
24 already -- someone had already set up a plan whereby his
25 payments were assured until he was 65.

26 THE WITNESS: I guess the point that comes
27 to my mind in response to that, sir, is that he had been
28 paying for a long term disability protection and if he
29 became disabled he paid for that 50% of salary and I
30 guess this is a judgment factor and you may completely

1 disagree with my reasons on it, but I would feel very
2 peculiar to take away protection from a man a year before
3 he goes on retirement if he has been paying them for the
4 past five or six years or whatever it might be.

5 MR. ALLAN: Could he by that means get a
6 payment greater than his salary had been?

7 THE WITNESS: No, he would not get a payment
8 that was greater than his salary if you take out of the
9 calculation income tax, that does make a difference, but
10 aside from that he would not get a pay greater than his
11 salary but he would eat up his attendance credit at a
12 slower rate.

13 MR. DEANS: Half as many?

14 THE WITNESS: Half as many, that is correct,
15 sir.

16 THE CHAIRMAN: Mr. Miller?

17 MR. MILLER: I was confused about the last
18 25 days pay that were granted to Mr. Cauley to bring him
19 to age 65. Was there actuarially -- would there have
20 been a difference in his pension for those 25 days?

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Betts,

1 THE WITNESS: I would like to answer that
2 in two parts if I may. The 25 days was made as a pro-
3 jection at the outset and the way it turned out it was
4 something less than 25 days that was the gap.

5 It was 24 if you took out the statutory
6 holidays. There was a gap.

7 I guess I don't feel that actuarially
8 confident what one month would do out of 30 years, but,
9 you know, it could ---

10 MR. MILLER: There would have been a
11 difference in the pension that he received?

12 THE WITNESS: If it is measureable and I
13 would have to ask somebody more qualified. I don't really
14 think I am qualified to answer that question.

15 MR. DEANS: Mr. Betts, the matter of -- I
16 wasn't really sure whether you were in a position to deal
17 with Mr. Cauley's case or not. I want first to say your
18 explanation of the leave of absence clauses and the
19 matter pertaining to the actually retirement program is
20 very, very clear. It is probably the clearest information
21 we have received in a number of days of Hearings. I want
22 to tell you that in regard to Mr. Cauley's retirement I
23 as you know from listening to the Hearings have a bit of
24 a hangup over it. I seriously wonder whether or not it
25 is proper to pay a person a salary after he has resigned
26 from employment. Now I am not sure whether you have any
27 expertise in this field or not but if you do have I
28 would appreciate the benefit of it. Have you ever come
29 across in the years in the job that you have held in
30 similar capacities a situation where a person was paid

Betts,

1 a salary with all of his benefits maintained after his
2 resignation was accepted -- and this to be continued in
3 excess of two years?

4 THE WITNESS: I have run across cases
5 where people have offered their resignation and it has
6 been changed.

7 MR. DEANS: That isn't this case.

8 THE WITNESS: I don't really feel competent
9 to deal with Mr. Cauley's case, it was before I was
10 there and he is a Board member and it is well above
11 anything that I deal with so I am not really competent
12 to deal with Mr. Cauley's particular case.

13 MR. DEANS: Are you familiar, sir, with
14 the Act surrounding payment to Board members?

15 THE WITNESS: No, I am not.

16 MR. DEANS: You are not?

17 THE WITNESS: No.

18 MR. DEANS: Then I will speak to Mr.
19 MacDonald who I am sure will be.

20 THE WITNESS: I am sorry I can't.

21 MR. DEANS: That's fine. I don't want to
22 put you on a spot by asking you things you don't know.

23 THE WITNESS: Thank you.

24 THE CHAIRMAN: Mr. Good?

25 MR. GOOD: Mr. Chairman, in that regard
26 may I just draw the attention of the Committee to one
27 point? Mr. Cauley's letter, he asks to be relieved
28 of his duties as vice-chairman. He does not mention
29 the word "retirement". The word "retirement" comes
30 out in the Board order. In Dr. Steele's the Board order

Betts,

1 speaks of it as resignation so we have got a lot of
2 words here which I don't think -- I think they have been
3 all used in one and the same context without any thought
4 of really the implication of retirement or resignation
5 or early retirement or going on sick benefits or whatever.

6 MR. DEANS: Mr. Chairman, in reply to
7 Mr. Good if I may, it has nothing to do with what Mr.
8 Cauley wrote, it is a matter of what the Order-in-
9 Council read and they accept his resignation. That is
10 the legal document that we are dealing with, it has
11 nothing to do with Mr. Cauley's letter.

12 THE CHAIRMAN: Any questions from other
13 members of the Committee of Mr. Betts?

14 Mr. Lawlor?

15 MR. LAWLOR: One small question: I am
16 not quite clear that while you are using up your sick
17 credits you also during that period of time, perhaps
18 a little like a contagious disease or a self-inflicted
19 wound upon which you get a furlough in reward, you
20 continue to accumulate sick credits; is that so? Is
21 that the explanation or behind part of the explanation
22 as to why these extra days were allocated to Mr. Cauley
23 as far as you know?

24 THE WITNESS: I had tried to clarify
25 that and maybe I did it very ineptly, but the regular
26 procedure completely aside from early retirement is that
27 when you are on sick leave or vacation, so long as your
28 salary continues you continue to accumulate, and as I
29 say, I think that is not particular to the Board, I
30 think that happens in other places, so on the early

1 leaving the principle that is applied is precisely the
2 same as that which is applied for anybody that is out on
3 vacation or out sick.

4 Have I dealt with the question adequately?

5 MR. LAWLOR: As I said, it is like a self-
6 inflicting wound from which you get a furlough, but if
7 that's the policy so be it.

8 MR. ALLAN: Mr. Chairman, I don't know
9 whether it would be fair to ask Mr. Betts in his
10 experience with the Federal Government if it was possible
11 for any retired -- retiree to continue on pension -- or
12 to continue on salary and accumulate credits after his
13 separation?

14 THE WITNESS: The Federal Government has
15 a different system. According to my information even
16 if he had no attendance credits at all, if he had 26
17 years of service he would get 26 weeks severance pay.
18 So that it isn't strictly speaking the same thing, but
19 it is a related sort of thing and there are other aspects
20 of the federal plan that are, I think, more liberal
21 than this so it is very difficult to compare because
22 they may not have this particular feature, but they have
23 other features including such things as retirement at
24 age 60.

25 MR. ALLAN: I was more interested not in
26 the benefits of the plan, but it was my understanding --
27 and I might be wrong -- it was my understanding that
28 at the time of separation there was a settlement and if
29 the person hadn't taken vacation credits before the
30 separation then he was paid 50%.

1 THE WITNESS: I understand, sir, that what
2 they get is a gratuity based on their length of service,
3 one week say for each years pay which is a cash gratuity
4 even if they have used up all their attendance credits
5 and there are stories circulating around that people
6 don't usually get left with that many service credits
7 by the time they retire, but they get the 26 weeks
8 gratuity. Now it isn't the same thing, but it is sort
9 of parallel. There is a cash gratuity completely aside
10 from vacation credits or attendance credits so it is
11 different, sir.

12 MR. DEANS: You can hardly blame them
13 for not having any attendance credits left, can you?

14 THE WITNESS: I think that is one of the
15 things that we are trying to avoid, is to have people
16 taking time off unnecessarily from time to time off-
17 setting the work schedule, that is one of the incentives
18 that we thought that this plan would accomplish, was
19 to keep them at work and then have the separation in
20 one lump rather than a week here and a week there and
21 a month there which mucks up the whole work schedule.

22 MR. DEANS: Are you governed by any Act
23 or regulation regarding the six month or 50%?

24 THE WITNESS: We have a Board order on it,
25 sir, and that may have legislation behind it, but the
26 only thing I know is that we have a Board order.

27 MR. DEANS: The reason I ask is, again,
28 from municipal employees there is, I believe, a municipi-
29 pal retirement perhaps in the Municipal Act and in one
30 or two Acts there is a regulation or a section dealing

1 with the amount that can be paid on retirement and the
2 amount of sick leave credits that have accumulated. Up
3 until 1952 I think it was it was possible to receive
4 payment in full for all time accumulative and it was
5 changed at that time to six months or 50% and I just
6 wondered if you were governed by a similar Act?

7 THE WITNESS: I think not. I think this
8 is an internal discipline that was established, something
9 I read tells me that we started it back in the '50's
10 when the plan commenced. I think it is internally
11 generated and I know -- I know it's a Board order, but
12 I don't think it has any legislation and I hope if I'm
13 wrong one of my more learned colleagues will advise me
14 and advise you.

15 THE CHAIRMAN: Mr. Lawlor?

16 MR. LAWLOR: The severance pay feature
17 interests me a bit. That is in year one, it accumulates
18 -- it doesn't start in any particular year, but from
19 the very particular time in which you begin to work.
20 In one year you get one weeks severance pay.

21 THE WITNESS: I am talking about the
22 Federal Plan at the moment, sir.

23 MR. LAWLOR: No, I'm sorry, I am back to
24 your mention of the severance pay at 26 weeks -- based
25 on 26 weeks -- a week a year.

26 THE WITNESS: I was answering Mr. Allan
27 who was asking me about the Federal Plan and the
28 severance pay that I mentioned was related to the
29 Federal Plan.

30 MR. LAWLOR: And there is no such feature

1 in the Ontario?

2 THE WITNESS: In our ---

3 MR. LAWLOR: Yes.

4 THE WITNESS: No, the only cash we get
5 is either vacation or 50% of the attendance credits.

6 THE CHAIRMAN: Mr. Maeck?

7 MR. MAECK: Mr. Betts, you did mention
8 that you had some examples of people that have had
9 early retirement. I don't think we did get into those
10 at all. Would any of those have to do with people from
11 the Board or are they all from the other staff?

12 THE WITNESS: I have -- these are all
13 members.

14 MR. MAECK: All ---

15 THE WITNESS: Employees of the Board.

16 MR. MAECK: Employees of the Board; nothing
17 else?

18 THE WITNESS: That's right, sir.

19 MR. MAECK: I wonder if we could go through
20 one so we could have an example of what transpires when
21 someone takes early retirement?

22 THE WITNESS: Well, this just one on top,
23 the date of leaving is this month, he had been with us
24 -- the starting date was 1926 and he had been with us
25 since that time, of course. The number of vacation
26 credits he had was 19 and 1/3 days, his attendance
27 credits were 635 and 1/4 and he is going on vacation
28 at age 65.

29 Would you like a second example?

30 MR. MAECK: You said he was going on

1 vacation at age 65?

2 THE WITNESS: Did I say vacation? Pension.

3 MR. MAECK: Pension. Has he already
4 collected these benefits?

5 THE WITNESS: He is collecting them now.

6 MR. MAECK: How long has he been off work
7 then?

8 THE WITNESS: Just this month, this is a
9 new one.

10 MR. MAECK: I see.

11 THE WITNESS: He actually left work -- I
12 thought -- the question was when did he leave work?

13 MR. MAECK: Yes.

14 THE WITNESS: This month, April the 14th.

15 MR. MAECK: How would this work out then,
16 would he just receive a cheque for this amount of credits
17 when he takes his pension?

18 THE WITNESS: He will just continue
19 receiving his regular salary so long as these amount
20 of credits will support it.

21 MR. MAECK: Will he also then receive his
22 pension as well?

23 THE WITNESS: No, he will receive that
24 until he is aged 65 at which time his pension will
25 commence and that is in March the 15th, 1975.

26 MR. MAECK: Oh, I see. I misunderstood
27 you. I thought that he was 65 now, he is not 65 yet?

28 THE WITNESS: No, he was one of the ones
29 who was on this leave of absence.

30 MR. DENNIS: Does he have sufficient number

1 of credits to carry him to retirement age?

2 THE WITNESS: Yes, he does.

3 MR. MAECK: Six hundred and thirty-five
4 days?

5 THE WITNESS: Six hundred and thirty-five
6 days of attendance credits.

7 MR. DEANS: Is this available on request
8 or is it a matter of decision of someone whether or not
9 it is granted?

10 THE WITNESS: It is subject to approval.
11 So far as I am aware requests have all been accepted up
12 until now.

13 MR. DEANS: Why don't you just reduce the
14 retirement age? Or why don't you make the retirement
15 age 60 and pay them a better pension?

16 THE WITNESS: Well, the system we are
17 talking about if I may comment, sir, it has a value I
18 think. As long as you have attendance credits accumulat-
19 ing it provides them with an incentive to be at work and
20 to stay at work and not to take off casual time. Now
21 the 50% and six months hurdle, once they have passed the
22 sixth month they have very little incentive to remain
23 at work. They feel more inclined to take it off. So
24 that we have got two things I think here and it shows a
25 very real purpose: One, it provides them with an incen-
26 tive to be at work and, secondly, in this case that I
27 have read off where the man had so many credits there
28 is a man who has been working with us since 1926 and I
29 think that if he has built up that many credits it is
30 kind of a proper sort of reward.

1 MR. DEANS: No quarrel with it. Do you
2 see an unusual circumstance, though, that the well people
3 retire and the sick people work until they are 65?

4 THE WITNESS: Well, that I see.

5 MR. DEANS: Those that are well and fit
6 to work retire early and those that are sick and should
7 be retired have to work.

8 Oh well, it isn't that. I think it is a
9 great plan.

10 THE WITNESS: Would you like me to comment
11 on that?

12 MR. DEANS: I understand it. I think it
13 is a great plan. You may if you wish.

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1 MR. DONNELLY: Before we move on to another
2 one, Mr. Chairman, tell me, sir, is that man's salary
3 now fixed up until 1975 when he goes on pension?

4 A. Yes, it is.

5 Q. And he has got enough years in that
6 he has earned the maximum pension, 35 years is it?

7 A. I am not sure that that part is
8 correct, sir. He is retiring because he feels it is
9 okay but I know this -- I think he has something less
10 than the maximum, 35 times two.

11 Q. I thought he had 46 years in?

12 A. Well, the 35 years commences at
13 1940 which is when the plan came in and anytime prior to
14 1940 is only 1%.

15 Q. Do you deduct the L.T.D.O., whatever
16 it is, from that, Exhibit No. 1?

17 A. All the regular deductions will take
18 place, income tax, L.T.D., the OHSIP, yes, they are all
19 deducted.

20 Q. What if there was a retroactive
21 salary increase for that man's position, sir, retroactive
22 to the time he was ---

23 A. We at the Board ---

24 Q. --- excuse me, retroactive to the
25 time that he was on duty before 1940?

26 A. We at the Board do not as a general
27 policy or practice general increases so that we can't
28 say that if the salary rate is changed everybody gets
29 that increase. So that there is no automatic flow. I
30 think that would have to be looked at separately but

ordinarily, I would say that we don't make general increases when we change the salary ranges.

MR. DEAN: Isn't there a union at the Board, Mr. Betts?

THE WITNESS: No, there isn't.

MR. DEANS: Pay heed, you unions.

There is no contract?

THE WITNESS: That is correct.

THE CHAIRMAN: Mr. Miller?

MR. MILLER: Have you any other examples of anyone who qualified as Mr. Cauley did for a retro-active pay increase among those 50 people?

THE WITNESS: I think not. I will check it later but, so far as I am aware, there aren't any.

THE CHAIRMAN: Mr. Good?

MR. GOOD: If the early retirement were to take place just a short space of time too soon and the salary didn't reach until he was 65 to go on pension, then of course he would only be eligible for a half of his attendance credits; is that correct?

THE WITNESS: If he ran out of credits before the planned pension commencement?

MR. GOOD: Yes.

THE WITNESS: I think we had one like that and we had to put him on pension a little earlier than he had planned. Again, I think it was only about a week or two weeks and I don't know what kind of an adjustment it was but I am pretty sure that we did recalculate it and he went on pension a little earlier.

MR. GOOD: Normally with considerable time

1 before, he only qualifies for half his attendance credits,
2 six months or whichever?

3 THE WITNESS: No, if he runs out -- I
4 wonder if I am sure I have got that correct, sir. As I
5 understand you put it that if in using up his credits
6 he ran out of credits before pension commenced?

7 MR. GOOD: Yes.

8 THE WITNESS: He is out.

9 MR. MAECK: He would have to go back
10 to work?

11 MR. GOOD: On these credits, did you not
12 tell us that he could only get 50% of his unused
13 attendance credits or six months maximum?

14 THE WITNESS: Yes, but he doesn't get both.

15 MR. GOOD: But he gets one or the other..
16 But if he is on early retirement, he gets his full
17 attendance credits; is that not correct?

18 THE WITNESS: That is so, but when he uses
19 those up he does not then get any cash for them so that
20 if he ran out before the pension date there would be just
21 a gap there and he wouldn't have enough credits to run
22 them in that date.

23 MR. GOOD: You wouldn't reclassify him and
24 say, "Well look, you should have really settled for a
25 cash settlement when you quit at 50%."

26 THE WITNESS: No.

27 THE CHAIRMAN: Any further questions of
28 Mr. Betts?

29 MR. DONNELLY: Just one. That example,
30 do you call that a paid leave of absence or early retirement,

1 sir, or is it the same thing?

2 A. It is the same that we have been
3 talking about with early retirement. I have distinguished
4 them because the superannuation plan has an early
5 retirement in it and what we are talking about is not
6 the early retirement of the superannuation plan and the
7 Board order refers to it as a paid leave of absence.
8 Now based on accumulated attendance and vacation credits
9 prior to commencing superannuation, this is the sort of
10 terminology that is in the Board and so I have been
11 referring to it as a paid leave of absence.

12 MR. GOOD: This is the Board order of
13 July 2nd, 1969, is that right?

14 THE WITNESS: Yes, that is correct.

15 The cheque that they receive is just a
16 continuation of their regular salary cheque and it wouldn't
17 look any different the week after they go off than it
18 did the week before they went off.

19 MR. DEANS: That doesn't really explain
20 Mr. Cauley's cheque nevertheless. It doesn't explain
21 the propriety of paying it. I appreciate that comment.

22 MR. ALLAN: Mr. Chairman, really the
23 early retirement, this doesn't mean anything, does it?
24 There is no different treatment for a man who retires
25 early than the one who stays until he is 65?

26 THE WITNESS: I am not sure that I catch
27 that, sir.

28 MR. ALLAN: Well, the treatment that he
29 gets in retiring -- now I know he isn't adding to his
30 years of service after he is 65, but other than that, the

1 man who retires at 63, if he has enough credits to carry
2 him to 65, all right, and if he requires it at 65, he
3 gets his salary for two years after?

4 MR. DEANS: No.

5 THE WITNESS: I am sorry, I just haven't
6 -- I must be in trouble here or I am not following.

7 MR. ALLAN: Well the man who retires at
8 65 -- tell me what you do with him.

9 THE WITNESS: The man who retires at 65
10 without using his accumulated credits, he would go on
11 pension at 65 ---

12 MR. ALLAN: He is forced to go on?

13 THE WITNESS: Yes, I think they go out
14 at 65. I don't know that I could use the word "forced"
15 but I believe that is the normal retirement and that's
16 when they go out unless they get special permission. Now
17 he retires at age 65 and he goes on pension but he has
18 got X attendance credits that have been accumulated and
19 he has got vacation credits which he hasn't used and he
20 would get cash for his -- he goes on pension at age 65
21 and he would get cash for his vacation credits and he will
22 get 50% of his attendance credits so long as it is no
23 more than six months.

24 MR. ALLAN: I understood something you
25 said before because I thought you said if he retired at
26 65 he would work out his vacation credits and his
27 attendance credits in the same way.

28 THE WITNESS: No, I must have expressed
29 myself unclearly. I was talking about working it out
30 prior to going on the pension, prior to commencing

1 pension and if he works right up to pension and he has
2 still got his accumulated credits, he cashes them at the
3 50% rate and the 100% rate.

4 MR. DONNELLY: Q. Is there any difference
5 for that man, sir, if he has a medical certificate,
6 the standard age 65 retirement?

7 A. I wonder if you would give me that
8 again, please?

9 Q. Mr. Cauley said something about the
10 accumulation being related to six months unless you were
11 certified ill or something of that nature.

12 If you have a medical certificate, does
13 that eliminate the six month maximum on the vacation or
14 the accumulated ---

15 A. No, the six month maximum and the
16 50% is -- relates to a person who is cashing them in and
17 taking the money home. That is the 50% and the six months,
18 he gets the money in his hand, but a person on sick leave
19 is entitled to be on sick leave so long as they have
20 credits and in this case of early leaving that we are
21 talking about.

22 MR. DEANS: Is the same?

23 THE WITNESS: It is the same as sick leave
24 or the same as vacation, whatever credits he has got
25 he is granted a paid leave of absence so there is no
26 six month maximum because he isn't cashing it in.

27 MR. MILLER: I can appreciate the incentive
28 of allowing the sick benefits to accrue, Mr. Betts, but
29 I can't reconcile the fact that you treat a man who
30 elects to retire, say, a year early differently than the

1 man who works up to his 65th birthday. Why shouldn't he
2 get full credit for his accrued benefits if you haven't
3 given them to him a year early?

4 THE WITNESS: If you give them to him ---

5 MR. MILLER: In other words, if he stops
6 before he is 65 he gets 100% of his accrued sick benefits.
7 If he stops afterwards he gets 50% of the six month maximum.

8 THE WITNESS: Well, we are not planning on
9 cashing it in, we are really giving him a reward for
10 accumulating these by stopping work sooner.

11 MR. MILLER: Well, but why is there a
12 reward for stopping work sooner?

13 THE WITNESS: If he works to 65 he will
14 only be able to -- well, he will cash in at 50%.

15 MR. MILLER: With a six month maximum.

16 THE WITNESS: That's right.

17 MR. MILLER: It just doesn't seem right to
18 me that if you work up to the last then you get less than
19 if you drop off a year early.

20 THE WITNESS: Well, I guess that is one
21 of the inequities that they had in mind when they put
22 this thing through, was to try to move away from that and
23 give the man the value of it. But I am just guessing; I
24 wasn't there at the time.

25 MR. MILLER: But they haven't done it yet.

26 THE WITNESS: They haven't done anything
27 for the guy after 65 getting all his credits, no.

28 THE CHAIRMAN: Has counsel for Mr. Cauley
29 any questions through Committee counsel?

30 MR. LA FOLLE: May I just comment on that?

1 Surely that is set up on the actuarial basis if they can
2 cut it off at 65 and the return of the thing is set up
3 throughout on that basis and, in other words, you are
4 not losing anything actuarially if you cut it off at an
5 earlier time?

6 MR. MILLER: No, it's not actuarial at
7 all. Only a pension is.

8 MR. LAWLOR: Well they get the same amount
9 of money.

10 MR. MILLER: Yes.

11 THE CHAIRMAN: Has Committee completed
12 their questioning of this witness?

13 MR. ALLAN: Just one little question.

14 THE CHAIRMAN: Mr. Allan?

15 MR. ALLAN: Just one little question if
16 you have the answer. Do you know if the pension fund
17 is actuarially sound?

18 THE WITNESS: Oh, I have been advised
19 that it is.

20 I must admit that I can't really speak
21 with authority on this aspect because I don't handle the
22 actuarial work.

23 MR. ALLAN: Who does? Do you know?

24 THE WITNESS: Well, Mr. McVery does and
25 he is away at the moment but I am sure there are other
26 people who might know about it but I cannot speak to that
27 point.

28 MR. DEANS: You can't? That is too bad.

29 THE CHAIRMAN: Mr. Deans, do you have
30 another question?

1 MR. DEANS: I do, but you tell me you
2 can't answer it, I don't think.

3 You wouldn't be able to tell me how long
4 -- let me put it another way: I was informed, and I
5 think we all were in fact, that there have been a number
6 of persons coming to the Board who would hardly be
7 considered young and I want to know whether a study has
8 been done of the pension plan to determine whether their
9 payments into the plan are sufficient to maintain the
10 actuarial soundness of the plan considering the short
11 period of time. How long must a person pay into the
12 plan -- and I understand how long he has to pay in in
13 order to get full benefit, but how long must he pay in
14 in order to have paid in sufficiently to be able to
15 maintain the actuarial soundness of the plan?

16 THE WITNESS: You are past me but I think
17 part of the answer I can give you is after age 35 --
18 well, the rates go up all the time and from age 35
19 onward -- 36 onwards they are above 6% and they finish
20 at -- if you go in at 45 or over you pay 7-3/4%.

21 MR. DEANS: Seven and three-quarter per
22 cent into the plan after age 45?

23 THE WITNESS: If you are entered after
24 that, yes.

25 MR. DEANS: Outwardly they would have
26 20 years of payment at 7-3/4%, that would be the maximum?

27 MR. MILLER: I don't think it is actuarially
28 sound.

29 MR. DEANS: I wonder if you could check
30 or the Board could check and get us the latest report of

23-10

1 an actuarial survey of the plan, in order to determine
2 it. The reason I am asking is because there have been
3 in later years -- Mr. Betts is an example, I might say,
4 in all fairness to him, of people joining the Board that
5 have come from another service that have accumulated,
6 I suspect, some kind of pension service elsewhere, and
7 you will be paying into the plan of the Board and I am
8 curious to know whether the amount of payment -- I don't
9 want to use you as an example but what people in your
10 category, whether there is sufficient being paid into
11 the fund to justify the kind of withdrawal that will
12 obviously take place in 15 or 20 years.

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1 MR. MILLER: I would suspect the lack of
2 a factorial basis would be represented by Mr. Cauley
3 himself. As I recall, the retroactive pay increase was
4 granted to him after his resignation and changed his
5 pension from \$11,000.00 a year to \$14,000.00 odd dollars
6 a year by itself, and this would destroy any actuarial
7 base that may have existed.

8 MR. DEANS: You will be able to provide the
9 figures anyway, will you?

10 MR. DONNELLY: Mr. Chairman, one question.
11 We passed by those 50 by just citing one. May I take it,
12 sir, that there was no selective use of that early
13 retirement plan, that they were all treated the same, that
14 the one example was typical of all?

15 THE WITNESS: Yes, you can, yes. The
16 difference would only be in starting dates and that sort
17 of thing.

18 MR. GOOD: And one further question, Mr.
19 Chairman. These 50 of whom you speak, they are all people
20 who have retired since the Board order came in in 1969;
21 in other words, there are no examples prior to Mr. Cauley's
22 retirement similar to this.

23 THE WITNESS: There is the one case that
24 you have heard about, Mr. Ledsham, that has been mentioned
25 and outside of that they have all been since.

26 MR. GOOD: Is it fair to say Mr. Cauley's
27 treatment perhaps created a precedent which has now
28 been followed?

29 THE CHAIRMAN: Thank you, Mr. Betts. You
30 may be excused now. Thank you for being so helpful to the

1 Committee.

2 Mr. Counsel, are you ready with another
3 witness?

4 MR. DONNELLY: Mr. MacDonald.

5 ALAN MacDONALD, sworn:

6 EXAMINATION BY MR. DONNELLY:

7 Q. Mr. MacDonald, you full name sir?

8 A. Alan Grant MacDonald.

9 Q. And your occupation?

10 A. I am General Manager of the Workmen's
11 Compensation Board.

12 Q. How long have you been with the
13 Board, sir?

14 A. Twenty-seven years.

15 Q. Do I understand you correctly that
16 you wish to make some statement at the beginning of your
17 testimony, sir?

18 A. I do, sir.

19 Q. Proceed, please.

20 A. Mr. Chairman, may I apologize, I have
21 been losing my voice so I will try my best not to lose it
22 again.

23 On Page 18 of Mr. Cauley's testimony on
24 the afternoon of April 5, 1972, he referred to my visit
25 to him.

26 As the Executive Manager of the Board, I had
27 been concerned for many months about the reaction of the
28 Vice-Chairman, Mr. J. E. Cauley, to the change in the appeals
29 procedure accepted by the Board at the appointment of
30 Mr. B. J. Legge, Q.C.

1 It was obvious to me that the reason for
2 this reaction was that it removed from Mr. Cauley the
3 satisfaction of seeming to be the person to whom union
4 representatives and others would come as the man best
5 able to solve their problems. The former appeal system
6 had several defects in it since it only provided information
7 to those persons who were represented by unions. I did
8 not provide information to every workman of his right to
9 appeal. It did not give reasons for decision and it only
10 provided a viva voce hearing for a very small percentage
11 of cases.

12 I had been making these points over and over
13 again with Mr. Cauley for several months prior to my
14 visit to him in April 1969.

15 Mr. Cauley had been attempting to support
16 his attitude about the new appeals procedure by appealing
17 to his friends to support him. The essence of his
18 argument was that the new system was too legalistic and
19 would inevitably produce delays in adjudication. These
20 allegations were never at any time supported by
21 statistics of performance.

22 I was concerned about the attitudes of all Board
23 members and as the Manager of Board activities responsible
24 for making the system work, I felt an obligation to try
25 to resolve the matter. In April 1969, and following advice
26 from our Director of Medical Services concerning the health
27 of Mr. Cauley, I did visit with Mr. Cauley at his home in
28 Ancaster. The purpose of this visit was to enquire about
29 his health and to see if I could prevail upon him to fully
30 accept the new appeal procedure.

1 At this late date it is impossible for me
2 to recall the exact words used during that conversation
3 as we covered a number of matters, but I do not recall
4 asking him to resign. I was an employee of the Board and
5 to suggest that a Commissioner, particularly one of long
6 standing, resign his position just isn't the kind of thing
7 I would do.

8 The records show that following my meeting
9 with Mr. Cauley, he contacted first Mr. Eberlee and then
10 Mr. Bales with Mr. Eberlee present and his resignation
11 letter is dated May 12th. Prior to that letter being
12 sent, I received a request from Mr. Bales to provide
13 information concerning benefits to which Mr. Cauley would
14 be entitled on retirement which was incorporated into the
15 Board order of May 8th, 1969.

16 The benefits to which Mr. Cauley was entitled
17 arose out of the existing credits he had for vacation
18 and sick leave and those which could be earned during the
19 period before his actual retirement date of August 19th,
20 1971, he was granted an additional period of credit days
21 including statutory holidays to bring him to his normal re-
22 tirement date.

23 There has been much discussion about the
24 responsibility of the Minister and the Board to have
25 provided Mr. Cauley with a copy of this Board order and
26 the full details of the arrangements to be made with him.
27 If we had known that Mr. Cauley had not been fully informed,
28 we would have gladly sent him a copy of the Board order
29 and if Mr. Cauley had at any time requested the details of
30 his retirement, we would also have provided these immediately.

1 Q. Does that conclude your statement,
2 sir?

3 A. That's my statement.

4 Q. Sir, many of the things that I was
5 going to ask you have been touched on by the last
6 witness and as a result this may have the appearance
7 and probably will be disjointed, but there are some things
8 I would like to ask of you to clear up. One of the
9 matter, sir, was the question of the per diem allowance
10 to the pro tempore Commissioners who sat perhaps during
11 the Chairman's absence or the absence of other members
12 of the Board. Can you help us as to how they are paid
13 and on what basis, sir.

14 A. When Mr. Poole left the
15 Board as an employee he was being paid at the annual
16 rate of \$22,500.00. The annual rate for a Commissioner
17 is \$31,000.00 and he is being paid for each day he comes
18 in on the differential between those two annual rates,
19 which is a per diem of \$32.69.

20 Q. Do you mean his per day pay is how
21 much, sir?

22 A. The additional pay he receives by
23 coming in as a Commissioner -- more than he would normally
24 receive on early retirement -- is \$32.69 per day.

25 Q. Well, you may have to make this
26 very simple for me to understand it, but suppose he comes
27 in tomorrow to hear a case, what is he paid?

28 A. Additionally?

29 Q. No, in total, sir.

30 A. He is paid at the rate of \$31,000.00

1 per annum divided into a daily basis.

2 Q. And I suppose ---

3 A. But he is already entitled to be paid
4 at the rate of \$22,500.00.

5 Q. Suppose the next day he doesn't come
6 in to hear a case.

7 A. He gets nothing more for that.

8 Q. Does he get that same fractional
9 portion of the \$31,000.00 as if he had worked?

10 A. No, he does not.

11 Q. Well in dollars and cents can you tell
12 me what he gets then and what day?

13 A. For each day he comes in it costs
14 the Board an additional \$32.69 beyond what they would
15 normally pay to him.

16 Q. Well I don't wish to harass you on
17 this, but in simple terms, if he comes in tomorrow and
18 hears a case what does he get in dollars and cents?

19 A. \$32 69 additionally for that day.

20 Do you want the total amount for that day?

21 MR. GOOD: He is on early retirement now
22 so he is drawing his pay every day of \$22,500.00.

23 MR. DONNELLY: Q. Then does he get that
24 same base figure the following day if he doesn't come in?

25 A. Yes.

26 Q. I am sorry, I understand that now, sir;
27 thank you.

28 One of the other matters that was dealt
29 with on April 5th was the question of who keeps track of
30 the sick credits for the Board members themselves. Can

1 you help us with that, sir?

2 A. I would like to clarify that point
3 because there was a difference in the testimony given
4 that day, and I frankly didn't recall that there were
5 two duplicate sets of records being kept when I was asked
6 a question. Starting as Mr. Rowntree reported in around
7 I think the January of '64 or '65 the duplicate records
8 began to be kept in the personnel department adjacent to
9 that which was kept by the Board member's own secretary.
10 However, I came back to my original point which was that
11 the input to that record came solely from the Board
12 members and from the secretary which had been reported on
13 very accurately.

14 Q. And is that the present situation
15 that the secretary for the member of the Board reports to
16 the personnel and the personnel then keeps track of it?

17 A. That is correct, sir.

18 Q. So that the input you say originates
19 with the members?

20 A. Right, sir.

21 Q. Now, tell me, sir, when Mr. Cauley
22 did in fact go on pension in August of 1969, did he receive
23 his full pension at that time or was it just a fractional
24 portion of his pension?

25 A. What was that date again, sir?

26 Q. August the 19th of 1969 when he went
27 on pension then?

28 A. He didn't go on true pension until
29 1971.

30 Q. I am sorry, 1971. Well did he get his

1 full pension at that time or was it some fraction -- was
2 it reduced because of the severance in '69?

3 A. No, he went on his full pension as
4 of August, 1971, sir.

5 Q. Now, sir, there has been much evidence
6 and we may hear more about the condition of the morale of
7 the Board and the employees from '65 on, but I wonder if
8 you have any comment to make about the present situation
9 now that we have three full time Commissioners. I am
10 concerned about the working conditions at the Board and
11 the morale that existed there, the senior employees and
12 dealing with the Board members. Have you any comment for
13 the Committee on that?

14 A. In my judgment the morale is quite
15 excellent. I think Mr. Hamilton commented quite accurately
16 on the facts of life that in a large organization people
17 do have differences of opinion, but I think that is a
18 healthy situation and not one that would detract from
19 having good morale.

20 Q. Now, sir, there is another matter
21 that we touched on today earlier and that was the question
22 of tape recorders. Can you give the Committee any
23 information in that respect, sir?

24 A. Well I believe Mr. Bales reported his
25 conversation with me which I categorically stated that as a
26 matter of general policy there is no hidden recording
27 devices in our organization; it is something that we just
28 couldn't do. I believe also, though, that Mr. Singer made
29 the reference to one occasion in which he contributed the
30 recording of a particular conversation that I carried out

1 and he is correct, I did do that.

2 Q. I am sorry, he correctly did that?

3 A. He is correct that I did do that on
4 one occasion. In retrospect I may feel it wasn't all that
5 wise but I can tell you that the matter involved a
6 criminal matter which was dealt with satisfactorily partly
7 because of that particular conversation with the newspaper
8 reporter concerned. I would not, but I will certainly
9 answer questions, I would not want to reveal the name of
10 the staff member concerned or the circumstances because it
11 does involve certain people who are here today, and I have
12 a feeling that all of us feel that this particular matter
13 was resolved properly and should not be the subject of
14 further discussion here.

15 Q. Before we come to a decision on that,
16 sir, may I take it then that you are saying that you know
17 of only one incident where this was done, to your personal
18 knowledge?

19 A. As far as Board business is concerned,
20 that is correct.

21 Q. And is this the taping of a conversation
22 or a telephone conversation?

23 A. This was a telephone conversation with
24 a newspaper reporter involving a criminal matter.

25 Q. And a single conversation only on one
26 occasion?

27 A. That is correct.

28 Q. And you say involving a criminal
29 matter. Was this a suspected criminal matter?

30 A. This was a proven criminal matter.

1 Q. Did it come to the Criminal Courts
2 or did it go that far?

3 A. It came as far as the Courts and
4 after restitution the Crown Attorney decided not to
5 proceed with the matter.

6 Q. And the very word "restitution" makes
7 one think of theft or something of that nature.

8 A. That is correct, sir.

9 Q. And the conversation was a conversation
10 with a reporter from the newspaper; is that what you are
11 telling us?

12 A. That is right, sir.

13 Q. Can you give us some idea as to why
14 that was done, what was the purpose of doing it, sir?

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1 A. I felt that it was important that
2 I should have an exact record of what was said at that
3 particular point.

4 Q. Did the person with whom you were
5 speaking know that he or she was being recorded?

6 A. I don't really know whether he did
7 or not.

8 Q. Not I take it from you anyway?

9 A. Not from me.

10 Q. And there would be no other way
11 he would know I suppose?

12 A. Except it may be a normal practice.

13 Q. Pardon?

14 A. It may be a normal practice for
15 the newspapers themselves under those kinds of circum-
16 stances.

17 Q. That the newspaper recorded them?

18 A. In my experience.

19 Q. I would just be careful about that
20 I think. How would you know if you were being recorded,
21 sir?

22 A. I would not know. There is no way
23 you could tell.

24 Q. I suppose that that may bring it
25 into the realm of conjecture, would it, or would it be
26 knowledge?

27 A. I tried to answer the question
28 as honestly as I could, sir, and, with respect, I think
29 I have answered it as best as I can.

30 Q. And your evidence then is that is

1 the only single occasion that you were personally involved
2 in in some secret recording of your voice or interview
3 or telephone conversation at the Board?

4 A. I am saying that under oath, sir.

5 Q. To widen the scope, you were person-
6 ally involved, what about other matters you have knowledge
7 of personally although you may not have been the person
8 partaking in the conversation?

9 A. I know of no other circumstances
10 that have come to my attention where that has been done,
11 sir.

12 Q. There has been some reference to the
13 possibility of either reporters who were thought to be
14 unfriendly to the Board or its causes or perhaps to
15 members of Parliament being possibly recorded unknown
16 to them in telephone conversations. Do you have any
17 knowledge of those matters, sir?

18 A. I do not, sir.

19 Q. Now, one of the matters that the
20 Committee will come to deal with is the question of
21 the industrial assessments and the remission and so on.
22 Were you going to make some statement on that, sir?

23 A. Yes, I would like to make a statement
24 about 86(7) and how it came into being.

25 MR. LEWIS: May I point a point of question
26 or order?

27 THE CHAIRMAN: What is your point of order?

28 MR. LEWIS: I am a little confused, Mr.
29 Chairman. We are now if I understand it moving into
30 the area of the four General Motors assessments.

1 THE CHAIRMAN: Not necessarily. No, really
2 now.

3 MR. DEANS: We are.

4 MR. DONNELLY: With respect, sir, I think
5 the Board hoped to start that area with this witness in
6 the presentation of that.

7 THE CHAIRMAN: You haven't reached that
8 point?

9 MR. DONNELLY: Well I think it is probably
10 introductory to that, sir.

11 THE CHAIRMAN: Then, Mr. Lewis?

12 MR. LEWIS: That is all. I was just offer-
13 ing the caution, Mr. Chairman, if it were possible, if
14 counsel wouldn't mind, if it were possible to deal with
15 the other matters before we get into that.

16 MR. DONNELLY: I have no objection whatever,
17 sir.

18 THE CHAIRMAN: Proceed.

19 MR. DONNELLY: Well, I prefer to have
20 the members examine now.

21 THE CHAIRMAN: Mr. Miller?

22 MR. AUSTIN: Mr. Chairman, may I make a
23 comment first? Mr. Chairman, I want to point out at this ---

24 THE CHAIRMAN: Well, what did you wish
25 to state?

26 MR. AUSTIN: I want to remind the members
27 that the fact that this witness has not dealt or does
28 not deal with a specific allegation made either by Mr.
29 Cauley or by a newspaper or by a member of the Committee
30 or by a member of the House does not in any way, shape

or form signify that he is admitting and I make that statement in the light of what has happened here today.

Now, Mr. Chairman, may I say one other thing?

THE CHAIRMAN: Well, I am reminded what counsel for Mr. Cauley said this afternoon and we have broken our rules slightly here and I would prefer if you would go through Committee Counsel.

MR. AUSTIN: Well, my understanding was this morning, as I pointed out, the House direction to this Committee is that counsel may -- for a witness may examine or cross-examine only through Counsel to the Committee; that says nothing about Counsel making objections and stating the reasons for those objections.

THE CHAIRMAN: I think you have a valid point.

MR. AUSTIN: My point is that it would be much faster and much more expeditious if I could state the reason for my objection and any other counsel for any witness.

MR. LAPKIN: Mr. Chairman, I don't know if these points were made clear before Mr. Cauley testified, but it was my impression -- I am sure it was Mr. Humphrey's as well -- that counsel for the witnesses were not to address the Committee directly and that all remarks were to be made through Mr. Donnelly. Now if that is the situation as we understood it and we certainly abided by that during Mr. Cauley's testimony and I would expect that the same would apply to other witnesses as well.

THE CHAIRMAN: I realize and I made that

2/5
1 point a moment ago that it probably goes back to a not
2 very clear understanding of our procedures originally
3 I guess. I would ask the Committee Counsel again.

4 MR. DONNELLY: This matter has gone very
5 well with the co-operation of counsel so far and
6 probably we would try and continue and see how we get
7 along.

8 MR. AUSTIN: Mr. Chairman, I have one other
9 comment to make as to questions of members.

10 MR. DONNELLY: Excuse me, I don't want to
11 be taken in a ruling if my friend is in order or not.

12 THE CHAIRMAN: In all fairness I think you
13 had better go through the Committee Counsel.

14 MR. DONNELLY: Mr. Chairman, I have been
15 asked to remind the members of the Committee and the
16 House in these words: "I ask you to remember that these
17 witnesses are public servants and
18 that they are here to answer your
19 questions, not to be the victims of
20 your oratory."

21 MR. DEANS: Well, Mr. Chairman, I resent
22 the information contained in the statement by either the
23 lawyer or solicitor for the witness. I don't think that
24 it is the place of the solicitor for the witness to tell
25 us how to conduct the Hearings. If he has any objection
26 to what is being done he may do so through the counsel,
27 but I very much resent any implications -- I think that
28 this Committee will conduct its Hearings as it sees fit
29 and we don't require to be told how to do so by any
30 counsel for any witness appearing.

MacDonald,

1 MR. LEWIS: Exactly, Mr. Chairman. It is
2 a presumptuous thing for the lawyer to do if we have to
3 suffer through the legalise he would be well used to
4 listen to a little honest oratory from time to time.

5 THE CHAIRMAN: Not entirely, Mr. Lewis. I
6 think we can give his statement some consideration.
7 There are times perhaps when we could go too far.

8 MR. LEWIS: The Chair may do it, but this
9 is a Committee which has not yet -- this is our first
10 experiment in this area. I think most of us agree that
11 it has been proceeding well; I have not noticed any
12 civil servants disintegrating under the questions or
13 oratory of the members and I think the lawyer is
14 presumptuous.

15 THE CHAIRMAN: Mr. Miller?

16 MR. MILLER: Well, I am sitting on the
17 fence, Mr. Lewis, but I do feel (A) that we have the
18 right to ask questions that are in order -- that apply
19 to the case -- but (B) we have to realize that some of
20 the people coming before us are not used to the rules
21 of the game that those of us who are elected live by and
22 it may be a lot harder for them to accept our method of
23 questioning and the types of questions that we sometimes
24 direct. I sometimes wonder as I listen to the questions
25 we direct at these men why they stay in their jobs. We
26 have the right ---

27 MR. LEWIS: That is your problem.

28 MR. MILLER: I realize that is my problem.

29 MR. LEWIS: They seem to handle it quite
30 nicely.

1 MR. MILLER: No, I don't mean to try to
2 withhold evidence or things pertaining to the case, that
3 is not the intent, simply somehow to leave them with
4 some sense of honour.

5 THE CHAIRMAN: Mr. Gaunt?

6 MR. GAUNT: Well, Mr. Chairman, I want
7 to pursue the matter of the meeting with Mr. Cauley
8 because there seems to be some confusion with respect
9 to it. As I understood the witness, Mr. MacDonald, to
10 say that he had gone out to Mr. Cauley's home ---

11 THE CHAIRMAN: I thought you were going
12 ahead with questions of Mr. MacDonald.

13 MR. GAUNT: Yes.

14 THE CHAIRMAN: I thought you were dwelling
15 on the point made by Mr. Lewis.

16 MR. LAWLOR: Mr. Chairman, if I might just
17 make a comment on that?

18 THE CHAIRMAN: Yes, we may as well have
19 all the views.

20 MR. LAWLOR: You may as well get it onto
21 the table. It will be valuable for the future purposes
22 of this Committee.

23 I feel as a lawyer fairly used to court-
24 room confrontations that the full amplitudes, say, of
25 cross-examination is not present here and ought not to
26 be present. It is not an adversary procedure, it is not
27 accusatory in nature, but when you do some of these
28 witnesses if they were on the stand in a courtroom it
29 would be completely different from the muffling effect
30 that you -- that is visited upon us here. It is quite

1 a different thing. It is a swaddle-clothed business in
2 a situation of this kind and therefore the witnesses
3 are magnificently protected by the very atmosphere of
4 this Committee. You don't need counsel coming before us
5 so a little -- so you have to build up your questions.
6 If he wants to call it oratory so be it. The fact is
7 that the questions then take on a size and quality to
8 the very nature of these proceedings which are different
9 to the short pithy type of question that you normally
10 ask in a courtroom and I would ask counsel to take that
11 into consideration. We have a completely different type
12 of forum on which we are trying to extract truth from
13 witnesses; I don't think they are in any way dishonoured
14 in the process; I do think that with the round-robin
15 business that they do undergo a considerable amount of
16 forceable questioning. But since it is quite fairly
17 repetitious they have already handled it a half a dozen
18 times before and you can tell from the tenure of the
19 witness when you are listening to the answer that he is
20 well girded against the coming in of the new question.
21 It is a completely different type of proceeding and I
22 think that is completely out of place to bring umbridge
23 upon the members of this Committee in the mode of
24 questioning simply because the atmosphere so generates
25 it.

26 MR. LEWIS: May I point out, Mr. Chairman,
27 the restraint with which some of us have offered our
28 views? Can you imagine if Mr. Martel had been here and
29 the lawyer had offered that observation?

30 THE CHAIRMAN: Well, I think we realize

1 that this Committee and others are operating in a very
2 grey area, somewhere between court proceedings and the
3 way a normal standing committee would operate and we
4 are probing along so to speak.

5 Had you completed your questioning?

6 MR. DONNELLY: Yes, I have, sir; thank you.

7 THE CHAIRMAN: Mr. Gaunt?

8 MR. GAUNT: Well, Mr. Chairman, I wanted
9 to pursue for a moment if I may with Mr. MacDonald the
10 matter of the meeting you had with Mr. Cauley. Now I
11 gathered from what you said you were concerned with the
12 attitude of Mr. Cauley with respect to the appeal system.
13 Mr. Cauley didn't like it, he made those views known,
14 you were concerned about that so you undertook, I gather
15 although you didn't specifically say so, on your own to
16 go out to see Mr. Cauley. Mr. Cauley has a different
17 view of it as you know, he said that you had indicated
18 to him that the Minister had sent you; the Minister has
19 indicated that he didn't send you. Did you go on your
20 own?

21 THE WITNESS: I did go on my own.

22 MR. GAUNT: And I want to fill in the flesh
23 as it were. What actually transpired? Did you approach
24 Mr. Cauley from the point of view of getting him to sign
25 anything, to sign any letter?

26 THE WITNESS: It was never my intention
27 there was to be a letter or a memo, it was just the
28 attitude I was after.

29 MR. GAUNT: So you went out there with the
30 point of view of having a nice friendly chat with him, is

1 that what you are saying?

2 THE WITNESS: That is what I am saying.

3 Basically I felt that, you know, the Board just couldn't
4 go on with this kind of underlying feelings, it had to
5 get fixed somehow or other.

6 MR. GAUNT: How would Mr. Cauley get the
7 impression that you had some instruction to get a letter
8 either of his resignation or to the effect that he now
9 agreed with the new appeal procedures? How would he
10 get that impression?

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1 THE WITNESS: I can't speak for Mr. Cauley.
2 All I know was in my mind what I was trying to do and
3 certainly there was no thought in my mind that he wanted
4 to resign because Mr. Cauley had made a long contribution
5 to the Board. I felt he still could be useful but I
6 didn't feel we could continue with these differences of
7 opinion.

8 MR. GAUNT: Was there any suggestion
9 that any of the information that would be given to you
10 on that visit would be subsequently used by the Minister
11 in the House?

12 THE WITNESS: Certainly it wasn't in my
13 mind, sir.

14 MR. GAUNT: What was the tenure of the
15 meeting? Was Mr. Cauley agitated? Was he upset that
16 you should come and see him in this manner? How did he
17 feel?

18 THE WITNESS: Mr. Cauley had worked for
19 over 25 years. It was a very friendly meeting, absolutely
20 no acrimony, very pleasant.

21 MR. GAUNT: In your view, there was no
22 animosity expressed on either side?

23 THE WITNESS: No.

24 MR. GAUNT: Did Mr. Legge or any other
25 Board member suggest to you -- not direct, but suggest
26 to you that at some point you should go and see Mr. Cauley
27 in view of the differences that had existed among members
28 of the Board?

29 THE WITNESS: I think that everyone
30 concerned looked to me to try to find some solutions to

1 the problem but they didn't specifically say do it that
2 day or anything specifically.

3 MR. GAUNT: But did they put it in this
4 context: "Al, if you get a chance, go out and see
5 Mr. Cauley and have a chat with him." Was it put in that
6 manner?

7 THE WITNESS: No, I assure this Committee
8 it was my decision to do that day because I was concerned
9 about Mr. Cauley myself.

10 MR. GAUNT: And you undertook solely on
11 your own to do this?

12 THE WITNESS: I have indicated that the
13 Board member and the Minister knew that this was my role.
14 Certainly nobody sent me that day to do that.

15 MR. GAUNT: I am not talking about sending
16 you on that specific day, Mr. MacDonald, I am just
17 talking about giving you an instruction, presumably at
18 your convenience, that you go out and see Mr. Cauley
19 and talk to him to see if some of the differences, with
20 respect to the appeal system and certainly differences
21 surrounding various members of the Board could be
22 resolved.

23 THE WITNESS: In terms of being told
24 specifically to do that, I was never told that. I think
25 everyone understood that if anyone could do it, it would
26 have to be me.

27 MR. GAUNT: Well, you use the word
28 "specifically". All right, in general terms, was it made
29 known to you that you would undertake this task?

30 THE WITNESS: Well, Mr. Gaunt, this is my

1 role constantly.

2 MR. GOOD: You mean to keep peace among
3 the Board?

4 THE WITNESS: Pardon?

5 MR. GOOD: Surely now, to keep peace among
6 the Board?

7 THE WITNESS: My job is to deal with the
8 problems that come up with the Board and deal with the
9 men and resolve them. And I don't know whether you have
10 any idea of the volume of activities we have and the
11 problems we have and constantly I have to deal with them.
12 I think somebody said nobody in their right mind would
13 take this kind of job earlier.

14 MR. GAUNT: That may very well be true,
15 Mr. MacDonald, but is it your task from time to time to
16 resolve differences among Board members? Have you ever
17 undertaken this responsibility before?

18 THE WITNESS: Yes, I have.

19 MR. GAUNT: Are you in a position to indicate
20 was it with the same Board members or dealing with Board
21 members who weren't the same as the Board members under
22 discussion?

23 THE WITNESS: I don't think that is a very
24 fair question. I suggest to you gentlemen that anybody
25 in my kind of role, in any government department or agency,
26 will have these kind of problems from time to time and he
27 will do the best he can with them.

28 MR. GAUNT: So you did undertake this type
29 of thing before? This wasn't unique. Have you undertaken
30 it since or had you undertaken it previous to going to see

1 Mr. Cauley?

2 THE WITNESS: Yes to both questions.

3 MR. GAUNT: So this is something that you
4 do not often but on occasion?

5 THE WITNESS: Well, I state again that I
6 think anyone acting in this kind of capacity in any govern-
7 ment agency will have to do this from time to time.

8 MR. GAUNT: Were you aware that Mr. Cauley
9 had a tape recorder?

10 THE WITNESS: No, I did not.

11 MR. GAUNT: He never indicated to you that
12 he was going to record, if that is the proper term, the
13 conversations you had with him?

14 THE WITNESS: No.

15 THE CHAIRMAN: Mr. Miller?

16 MR. MILLER: Mr. MacDonald, did you prepare
17 the Board order or do you normally prepare Board orders
18 for the Board to sign?

19 THE WITNESS: Normally it is done by the
20 secretary, sir.

21 MR. MILLER: In the case of the Board order
22 relating to the conditions under which Mr. Cauley had
23 resigned, did you prepare it?

24 THE WITNESS: I recall having input into
25 it. I think it was prepared by the secretary, the final.

26 MR. MILLER: In particular, we discussed
27 the role of the word "consultancy". We are trying to
28 find out who added that to the Board order.

29 THE WITNESS: It was my understanding that
30 that was our instructions, sir.

1 MR. MILLER: Did you receive the instruction
2 from anybody?

3 THE WITNESS: My recollection is the same
4 as the Chairman's, we reported that.

5 MR. MILLER: Which was?

6 THE WITNESS: That we discussed it with
7 the Minister and he decided it was going to be part of
8 the order.

9 MR. MILLER: We have a conflict of testi-
10 mony on this point.

11 THE WITNESS: Well I suggest, sir, Mr. Bales
12 remembers it perfectly and perhaps we remember it perfectly
13 too.

14 MR. MILLER: In the first person, though,
15 you did not add it on your own?

16 THE WITNESS: No, definitely not. It would
17 certainly not be my role.

18 MR. MILLER: You mentioned you were very
19 aware of the feelings of Mr. Cauley before your visit to
20 him?

21 THE WITNESS: Yes, sir, I was. He expressed
22 it to me many times.

23 MR. MILLER: Well, I am glad to hear that
24 he did because I have been concerned that the Chairman
25 was unaware. His statements have been fairly consistent
26 on this. Does this seem logical?

27 THE WITNESS: I think Mr. Legge's testimony
28 was that publicly and in meetings between them as persons
29 these opinions had never been expressed and that's what
30 his evidence says, as I understand it.

1 MR. MILLER: Well then, do you normally
2 attend the administrative meetings of the Board?

3 THE WITNESS: I do.

4 MR. MILLER: Were they in fact harmonious?

5 THE WITNESS: There was never a Board
6 meeting that I can recall where there was anything other
7 than harmony.

8 MR. MILLER: It is very difficult to accept
9 when somebody is as upset as Mr. Cauley has been in public.

10 Now Mr. Cauley has entered as Exhibit
11 No. 1, what is said to be an affidavit, I understand, of
12 the tape recording of your visit to him.

13 THE WITNESS: I have read it.

14 MR. MILLER: Do you feel that that is in
15 fact a tape recording of your visit?

16 THE WITNESS: No, I do not.

17 MR. MILLER: I notice that it doesn't say
18 that you are the person speaking on it. It is very care-
19 ful in its statement that simply these words were on a
20 tape.

21 THE WITNESS: You noticed that too.

22 MR. MILLER: In the building there on
23 April 7th, if I can find the particular issue, somebody
24 said that they had been ordered by you to take notes of
25 any meetings that Mr. Decker had with you; if I recall
26 correctly?

27 THE WITNESS: The standard operating
28 meeting procedure, as far as I am concerned, is if anyone
29 has anything significant they feel I should do, is to
30 write it down, whatever that subject may be.

1 MR. MILLER: But did you in fact issue
2 an order that if Mr. Decker talked to someone they should
3 report back to you with written notes?

4 THE WITNESS: No, I didn't.

5 MR. MILLER: Another point that was
6 discussed at great length with several previous witnesses
7 was the apparent lack of communication between the Board
8 and the people who were interested in the contents of
9 the Board order dealing with Mr. Cauley. You got both
10 copies according to the Board order that I have?

11 THE WITNESS: Yes.

12 MR. MILLER: Would it have been up to you
13 to see that they were sent on to Mr. Cauley or the Minister?

14 THE WITNESS: I felt that the Minister was
15 dealing directly with this situation because it was a
16 Board member and the Board does not deal with itself and,
17 as far as I am concerned, I was surprised to find that
18 Mr. Cauley didn't know the arrangements when he gave
19 evidence to that effect.

20 MR. MILLER: Those are all my questions,
21 Mr. Chairman.

22 THE CHAIRMAN: Mr. Deans?

23 MR. DEANS: Thank you, Mr. Chairman.

24 I want to go back, Mr. MacDonald, I am
25 not entirely satisfied with the answer you give -- I
26 am satisfied with the answer you give as to the question
27 that was asked. I want to ask the question, I want to
28 get back to begin with Mr. Cauley's statement in regard
29 to his visit, your visit to his home, the famous visit
30 that has the tape recorded message reported to be of you

1 and Mr. Cauley talking. Do you deny that the words in
2 the affidavit were spoken by you on that occasion?

3 THE WITNESS: They are just not my kind of
4 words, that's how I feel about it, but I have to tell
5 you categorically I don't remember the exact words that
6 were spoken as I have said. I know what my intent was ---

7 MR. DEANS: I am interested, Mr. MacDonald,
8 were you a friend of Mr. Cauley's?

9 THE WITNESS: I believe that we were friends.

10 MR. DEANS: Did you visit him often?

11 THE WITNESS: I had visited him before. I
12 don't visit him often; we weren't, you know, socially
13 close if that's what you mean.

14 MR. DEANS: Did you think at all that
15 Mr. Cauley was off from the Board on this occasion?

16 THE WITNESS: I wondered how well he was,
17 in view of the medical reports that I had received.

18 MR. DEANS: The medical report that you
19 received, what initiated that medical report?

20 THE WITNESS: It was spontaneously, as I
21 understand it, from Mr. Cauley's attending physician to
22 our director of medical services. The call came from
23 him to our chief doctor.

24 MR. DEANS: Now when you get a report
25 saying that Mr. Cauley would be away from work for at
26 least two weeks, did that really necessitate a visit by
27 you?

28 THE WITNESS: I think I have already given
29 evidence, sir, to the effect that this was a continuing
30 problem that I felt had to be resolved. I didn't feel

1 it could continue.

2 MR. DEANS: Well, let me ask you:
3 considering Mr. Cauley was away with what could have been
4 a reoccurrence of a heart condition, do you think it wise
5 to have gone to Ancaster at that time and entered into
6 a discussion with Mr. Cauley about his dissatisfaction
7 with the Board, considering that he might well have been
8 ill?

9 THE WITNESS: Well, I feel my motivations
10 were at the highest. I didn't feel that I was going to
11 make him any sicker than he already was.

12 MR. DEANS: Do you feel that a person who
13 was suffering from a heart condition and who is off sick,
14 that that would be the appropriate time to drop by and have
15 a friendly chat about getting him to agree that the
16 conditions at the Board were not as he had been attempting
17 to detail them to other people outside of the Board?

18 THE WITNESS: I can simply say what was in
19 the back of my mind was to help Mr. Cauley, not in any
20 way to do him any harm.

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1 MR. DEANS: The whole bit about the tape
2 recorded message is quite upsetting. I suppose we will
3 hear more about it, but the matter -- do you believe that
4 the Minister was of the opinion that Mr. Cauley was at
5 the bottom of discontent and unrest at the Board?

6 THE WITNESS: I really can't speak for
7 the Minister, sir.

8 MR. DEANS: Did you ever speak with the
9 Minister about the matter?

10 THE WITNESS: Yes, we had discussed the
11 matter from time to time.

12 MR. DEANS: Did you ever think to say to
13 the Minister that you felt that perhaps Mr. Cauley was
14 at the bottom of the unrest at the Board?

15 THE WITNESS: Well I think Mr. Cauley's
16 own evidence indicates that he felt that way about it.

17 MR. DEANS: I am not asking you that, sir.
18 I am asking you whether you personally, in your discussions
19 with the Minister, felt that it was part of your job to
20 relay to the Minister your opinion that Mr. Cauley was
21 at the bottom of the unrest that was at the Board?

22 THE WITNESS: We discussed the matter and in
23 the discussion of the problems, I would think that it
24 would be apparent that this was part of the situation.

25 MR. DEANS: Did the Minister call you in to
26 discuss this matter?

27 THE WITNESS: I can't recall him calling
28 me in discussing the matters.

29 MR. DEANS: Did you make a special trip
30 to the Minister's office to discuss those matters?

1 THE WITNESS: I have only gone to the
2 Minister's offices when he has requested me to come. I
3 have never made an appointment with him in my life..

4 MR. DEANS: But he then must have called
5 you in?

6 THE WITNESS: From time to time, every
7 minister that I have been associated with has called me
8 in and asked me about various things.

9 MR. DEANS: Were you of the opinion that
10 Mr. Cauley was at the bottom of the unrest?

11 THE WITNESS: Personally?

12 MR. DEANS: Yes.

13 THE WITNESS: Yes, I was.

14 MR. DEANS: You were?

15 THE WITNESS: Yes.

16 MR. DEANS: Did you tell Mr. Legge?

17 THE WITNESS: Yes, I believe we discussed
18 it from time to time.

19 MR. DEANS: Did you explain to Mr. Legge
20 the syptoms of the unrest?

21 THE WITNESS: Well, the symptoms came to
22 us by way of certain delegations, certain attitudes,
23 certain letters.

24 MR. DEANS: Did you feel that the unrest
25 in any way inhibited the functioning of the Board?

26 THE WITNESS: Yes, I would have to believe
27 that when these kinds of things are happening, it's not
28 healthy for the organization.

29 MR. DEANS: Did you think it was in some
30 way inhibiting the normal and required function: of the

1 Board?

2 THE WITNESS: I think my last answer to
3 the question indicates that.

4 MR. DEANS: Did you tell Mr. Legge this?

5 THE WITNESS: Not as a -- I am saying that
6 the matter was discussed and the way of resolving it was
7 discussed from time to time.

8 MR. DEANS: I see. How did you decide to
9 resolve it?

10 THE WITNESS: I have already told you,
11 that I felt personally I should try to convince Mr. Cauley
12 to give the new system a chance rather than to prejudge
13 it.

14 MR. DEANS: And this was the result of the
15 discussions with Mr. Legge?

16 THE WITNESS: Oh, I can't say that Mr. Legge
17 didn't have knowledge of my attitude about it, but I also
18 have to say that Mr. Cauley and I discussed it at much
19 greater length than Mr. Legge and I.

20 MR. DEANS: But Mr. Legge was aware that
21 you were going to discuss the matter with Mr. Cauley?

22 THE WITNESS: Mr. Legge, I presume, expected
23 me to deal with every problem that comes to the Board as
24 best I can.

25 MR. DEANS: Mr. MacDonald, what is it about
26 your job, the function of your job, that leads you to
27 believe that you have the responsibility of informing
28 Board members when you believe that they are not performing
29 their function to the satisfaction of the Board?

30 THE WITNESS: I am afraid that particular

1 responsibility has fallen to me over the years.

2 MR. DEANS: In what way? How is it that
3 the General Manager of the Board would have delegated to
4 him such responsibility that would entitle him to confront
5 a Board member and inform him that he believes that he is
6 not contributing adequately to the normal and required
7 function of the Board?

8 THE WITNESS: Well, I don't know of any
9 job description that says I have that particular responsi-
10 bility, but I state again what I said earlier and that
11 is that in every organization I think this kind of role
12 comes to the general manager.

13 MR. DEANS: Mr. Legge said there were no
14 hard feelings evident at the Board in his view, that his
15 relationship with Mr. Cauley was friendly, that he and
16 Mr. Cauley had had a number -- though not many -- dis-
17 cussions about the operations of the Board and that they
18 had gotten along well. With that in mind, do you still
19 feel that it was your function to go to Mr. Cauley and
20 tell him you didn't like the way he was operating?

21 THE WITNESS: I am saying that their
22 meetings together were cordial and that they didn't discuss
23 these problems and for whatever reason I certainly can't
24 explain to you now. The differences of opinion did exist,
25 they were causing a problem in my opinion and I tried to
26 resolve it.

27 MR. DEANS: Mr. Cauley's retirement date,
28 this confidential order of the Board regarding Mr. Cauley
29 -- I am going to come back to that in a moment, by the
30 way -- I just wanted to go through this. Do you believe

1 that the Board has any legal right to pay a person a
2 salary after he has retired, after he has resigned --
3 I want to rephrase that.

4 THE WITNESS: Mr. Deans, I have heard you
5 make this point several times today and I understand
6 exactly what you are saying. Now, let's just realize
7 what we are dealing with here. We have a Board order made
8 on May 8th and we have an Order-in-Council dated
9 January 8th. Now I think that lately you are quite
10 correct that it shouldn't have been done that way. In
11 any case, it was done and, as Mr. Legge said last night,
12 and I heard his testimony, we were being as generous as
13 we could with a Board member and if, in fact, by the
14 subsequent Order-in-Council we traded anomaly, I guess
15 we will just have to say, we were sorry but we didn't
16 actually pass that Order-in-Council.

17 MR. DEANS: There is much more to it than
18 that. It isn't a matter of creating an anomaly or saying
19 you are sorry. You have spent a considerable amount of
20 money that doesn't belong to you without any legal
21 authorization; the money has been given to Jack Cauley;
22 there is no evidence that I can see of any act or
23 regulation which permits the Board to spend funds on the
24 salaries of people who have resigned and I am curious to
25 know whether this matter was ever discussed by the Board,
26 the legality of the matter was ever discussed by the
27 Board.

28 THE WITNESS: No, it was not, sir.

29 MR. DEANS: It was not. Doesn't it strike
30 you as odd that the Board would get so exercised over a

1 matter of some thousand or \$1500.00 for pictures and yet
2 it would spend some \$30,000.00 or more -- or perhaps
3 considerable -- \$60,000.00, I would guess, on a salary
4 for a former member who had resigned that you would go
5 to such lengths as to the extent of trying to shift the
6 blame from the Board to the vice-chairman of the Board
7 and the matter of the order and purchase of papers and
8 paying out the sum of \$60,000.00 in salaries that this
9 is done without any consideration for legality or anything
10 else?

11 THE WITNESS: I would have to tell you,
12 sir, that nobody looked at it from that point of view.

13 MR. DEANS: I would hate to think that
14 the Board conducts all of its affairs in that way.

15 THE WITNESS: I can assure you it does
16 not, sir.

17 MR. DEANS: I know it doesn't.

18 Let me ask you about the affidavits for
19 the photographs. Are you familiar with the affidavits
20 that were signed by both Mr. Hollingworth and Miss Bancroft?

21 THE WITNESS: I have seen them recently,
22 sir. I was not familiar with them until recently.

23 MR. DEANS: You have never seen them prior
24 to them coming before this hearing?

25 THE WITNESS: I have not, sir.

26 MR. DEANS: Do you normally sit in on
27 Board hearings?

28 THE WITNESS: I sit on administrative
29 Board hearings, yes.

30 MR. DEANS: Did you sit in on a Board

1 hearing that decided on the method of proceeding with
2 the claim by Mr. Campbell against the Workmen's
3 Compensation Board and Jack Cauley?

4 THE WITNESS: No, I did not, because I was
5 not in this position at that time. Mr. Poole sat in on
6 that meeting.

7 MR. DEANS: Was there anything?

8 THE WITNESS: I am afraid there was.

9 MR. DEANS: But you weren't in a position
10 in 1965 ---

11 THE WITNESS: No.

12 MR. DEANS: When did you assume the position?

13 THE WITNESS: Nineteen sixty-seven.

14 MR. DEANS: A newspaper article that has
15 been quoted quite extensively by a number of people, the
16 one which deals with some comments attributed to Mr. Decker,
17 it is a newspaper article dated April 7th, Friday,
18 April 7th, in which it says: "The only Workmen's Compen-
19 sation Board officials who could carry on
20 direct communication with the Minister
21 was Mr. Legge himself or Mr. MacDonald,
22 Executive Manager of the Board."

23 Are you familiar with any such arrangement?

24 THE WITNESS: No, I am not.

25 MR. DEANS: There is no such arrangement?

26 THE WITNESS: There is no such arrangement.

27 MR. DEANS: There is no such arrangement?

28 THE WITNESS: No.

29 MR. DEANS: Are you familiar with the
30 allegations of tape recordings?

1 THE WITNESS: Yes, I am.

2 MR. DEANS: What inquiries have been
3 conducted by the Board since these allegations were
4 raised?

5 THE WITNESS: We have had a Board meeting
6 in which we have discussed the matter fully about all of
7 the senior officials.

8 MR. DEANS: When did this Board meeting
9 take place?

10 THE WITNESS: It took place yesterday
11 morning, sir.

12 MR. DEANS: That is as good a time as any
13 to have it.

14 Mr. MacDonald, there has been a lot of
15 discussion about the relationships of the Board, the
16 relationships between individuals of the Board. It is
17 evident by -- I am not going to quote or read from it
18 today but other people have some feelings about the way
19 the Board has operated. Could you tell us, in your
20 relationship with Mr. Legge, a little bit about his job?
21 Could you tell us, for example, the kinds of administrative
22 decisions that you would require to go to Mr. Legge with,
23 in order to get ---

24 THE WITNESS: Mr. Legge is very interested
25 in all of our activities. I naturally don't bother him
26 with day to day and ordinary activities but if it was
27 a matter of any significance I make it a practice of
28 discussing the matter with him; I also make it a matter
29 of policy to discuss it with the other Board members as
30 well.

1 MR. DEANS: What kinds of things are you
2 talking about? Could you give me an example of things,
3 say in the last month, that you have found it necessary
4 to go and sit down and speak to the Chairman about other
5 than this hearing?

6 THE WITNESS: Frankly, that was about the
7 only thing going through my mind.

8 What, we have actuarial matters, we have
9 classification matters, all sorts of things that come
10 from day to day. If I feel they are going to in any
11 way eventually have to come to the Board for a decision
12 I talk to him about it. It would be difficult -- if you
13 want me to make a list I could probably do it.

14 MR. DEANS: Well I think you have been
15 here through most of the hearings and Mr. Legge has
16 pointed out that a great deal of his time is taken up
17 with administrative matters, talking to you basically
18 about the operations of the Board. Now what is it that
19 you can't handle in your position, senior position with
20 the Board, the most senior position, I would think, that
21 requires Mr. Legge's approval? What sorts of things is
22 it that ties up Mr. Legge to such an extent that he is
23 only able to attend half of the meetings some years and
24 30% other years and less in other years?

25 What is it that we are looking for? I
26 mean you can understand what we are after I think and
27 I am curious to know how it is that a person like yourself
28 who has a very senior and responsible position would be
29 required to sit down on a day to day basis with the
30 chairman of the Board and get his approval on general

1 administrative matters. Can you tell us what it is --
2 give us a sort of an outline of what it is that you do
3 and what it is that requires Mr. Legge's approval?

4 THE WITNESS: Let us understand, sir, I
5 am not going to him for his approval.

6 MR. DEANS: You are not going for his
7 approval?

8 THE WITNESS: Well there is no way we are
9 going to make a decision about anything in one Board
10 member's office. Matters of importance go to the Board-
11 room, they all go to the Boardroom and they are all dealt
12 with there. The question of what we are really doing is
13 briefing him on the things that go on from day to day.

14 MR. DEANS: You are briefing him on what
15 goes on from day to day?

16 THE WITNESS: The same as I do the other
17 Board members.

18 MR. DEANS: I see, you brief them all
19 equally?

20 THE WITNESS: I try to; I try to.

21 MR. DEANS: Well why would it take so much
22 of Mr. Legge's time to get the same briefing that
23 Mr. Hamilton is getting a similar amount and he is able
24 to conduct all these hearings in addition?

25 THE WITNESS: Mr. Legge, as he has told
26 you, has been involved in all sorts of Board related
27 activities. May I say this, sir ---

28 MR. DEANS: I'm sorry, go ahead.

29 THE WITNESS: I can attest to the fact
30 that Mr. Legge works more hours a day than any one of us

1 because of his interests in mostly Board related
2 activities and he gives his spare time as he is with
3 the Board. He has spent hours in the last two months
4 making a report to the President's Commission on
5 Workmen's Compensation in the States, hours and hours.

6 MR. DEANS: Would you say that they
7 had divided responsibility?

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1 THE WITNESS: In the first place, sir, I
2 don't say that they do have a divided responsibility. I
3 say they have an equal responsibility. I think the
4 Chairman inevitably -- I think Mr. Bales put it as the
5 first among equals is the phrase. He has to do some
6 things the other Board members don't have to do. I think
7 he has to be the spokesman for the Board; I think he has
8 to get a little more involved.

9 MR. ALLAN: Well I would think -- of course
10 I would think he should get more involved. I think the
11 Chairman of the Board has an added responsibility, I am
12 not trying to tell you my point of view, that you take for
13 instance in any large corporation where the Chairman of
14 the Board and the Chief Executive Officer is the Chief
15 Executive Officer, isn't he, and I am wondering whether
16 some of the problems that you are having in your Board
17 is this divided responsibility where three members of a
18 Board are all considered to have equal responsibility,
19 whether that this -- and through the years there has been
20 a certain amount of this, hasn't there?

21 THE WITNESS: This is not a new situation.

22 MR. ALLAN: It is not a new situation. But
23 I am wondering whether a part of the reason of this is the
24 way in which the Board is set up. Now I don't want you to
25 answer if you prefer not to, but I think that the organization
26 of the Board that this is one of the areas that I would be
27 concerned about, that is, it may be that members of the
28 Board other than the Chairman are being
29 downgraded by the Chairman and yet it seems to me that in
30 any well organized corporation there must be one head, the

1 administrative head.

2 THE WITNESS: I think the organization
3 requires that. To speculate on whether or not there should
4 be a greater feeling of satisfaction and perhaps less
5 friction if everybody felt exactly equal, I couldn't say.

6 MR. ALLAN: I think you have endeavoured to
7 do that and I think that is where some of your problems
8 have arisen.

9 And then there is the matter of -- I think
10 I heard someone say within the last couple of days they
11 mentioned special treatment that the senior members of the
12 staff received at the time of retirement and this was
13 mentioned by someone and I have forgotten who.

14 THE WITNESS: That includes members as well
15 as senior people.

16 MR. ALLAN: I don't see where anyone got
17 any special treatment.

18 THE WITNESS: That is right, sir.

19 MR. ALLAN: I don't see where Mr. Cauley
20 got any special treatment.

21 THE WITNESS: He got the special treatment
22 as to the cleaner I have just referred to.

23 MR. ALLAN: I don't know how you do it but
24 having decided what you are going to do, I think that he
25 qualified for what he got; am I right in that conclusion?

26 THE WITNESS: Very definitely qualified,
27 sir.

28 MR. ALLAN: Kind of a miserable question,
29 but it has been bandied around and that is that military
30 men receive a preference and employment with the Board.

1 Have you noticed this?

2 THE WITNESS: I think that is a ridiculous
3 statement, sir. I would like to have a few more military
4 men. That kind of training never hurt anybody.

5 MR. DEANS: Oh, I don't know. You might
6 ask some of those returning from Viet Nam.

7 THE CHAIRMAN: Have you completed?

8 MR. ALLAN: No, I have one more question.

9 THE CHAIRMAN: Proceed.

10 MR. ALLAN: This is the affidavit that was
11 read the first day.

12 THE WITNESS: Yes, sir.

13 MR. ALLAN: And I have read this and you
14 have read it. I don't think you have said definitely in
15 your opinion that you didn't make the statement that was
16 attributed to you in that affidavit, not perhaps directed
17 but by influence.

18 THE WITNESS: What I said was that doesn't
19 sound the way I normally talk, sir, but you know, it is
20 a very strange document I would have to say.

21 MR. ALLAN: Well could you not say -- he
22 says, "Jack, believe me, I am only carrying out instructions.
23 Well, Al, what's the alternative? Jack, there is none.
24 The Minister's are that you are to sign the letter or else."
25 Surely you can remember whether you said that or not.

26 THE WITNESS: I did not say that, sir. I am
27 positive of that.

28 MR. ALLAN: And there are several other
29 statements of a similar nature.

30 THE WITNESS: You must remember that I stated

1 this as being categorically, that my purpose was not to
2 get him to resign, it was to get him on the team.

3 MR. ALLAN: Yes.

4 THE CHAIRMAN: You have completed, Mr.
5 Allan. Mr. Good?

6 MR. GOOD: Thank you.

7 Mr. MacDonald, to pursue this matter about
8 special privilege and selectivity. Now your testimony of
9 the other day on Page 43 when you were discussing what
10 appeared to be the extra generous settlement given by the
11 Board order, in answer to questions you said, "People have
12 long service of recognized ability you allow certain
13 people a certain privilege." Special privilege Mr. Lewis
14 said, and then you say, "Yes, it is done selectively."
15 And therefore it is only for people with long service and
16 eminent service." And then you go on to explain it, and
17 then I think you gave us the impression at that time or
18 was this the policy at that time or lack of policy that
19 this was done on an individual selective basis by the
20 Board in dealing with its own members or other senior
21 people, or with whom? Now all the 50 examples we have had
22 today I understand are examples of early retirements since
23 Mr. Cauley's retirement; is that correct?

24 THE WITNESS: With the exception of one, sir.

25 MR. GOOD: With the exception of one.

26 THE WITNESS: Actually two if you call them --
27 Dr. Steele ---

28 MR. GOOD: Dr. Steele and the other?

29 THE WITNESS: Mr. Ledsham who was the Chief
30 of Appeals Tribunal

1 MR. GOOD: What did you mean by being done
2 by a selective basis and only therefore you allow certain
3 people special privilege?

4 THE WITNESS: What was in my mind when I
5 answered that question, sir, was it that it has to be
6 recognized by the department head and it has to be finally
7 approved by the Board.

8 MR. GOOD: But there was no order at this
9 point, when Mr. Cauley retired, there was no order, the
10 order didn't come until after that.

11 THE WITNESS: I did not interpret that
12 question as being pre-dating. I was talking about the
13 current policy when I was answering the question, that
14 was what was in my mind, sir.

15 MR. GOOD: We were talking about Mr.
16 Cauley's retirement, were we not?

17 THE WITNESS: I didn't understand the
18 question, sir.

19 MR. GOOD: And therefore it is only people
20 with long service and eminent service. "In Mr. Cauley's
21 situation as I have said we approved his record and as
22 others are permitted in their using of credits he continued
23 to earn credits. He continued to earn holiday and sick
24 leave." And then you go into this and as an explanation
25 of what you have said previously you refer to Mr. Cauley.
26 What I am getting at is this: did you generate this
27 special privilege for Mr. Cauley and then from that flowed
28 the Board order of July 2nd? Was this really the three
29 instances that were done individually and then you generated
30 this Board order to make this more or less an order of the

1 Board so that we deal with all early retirements from then
2 on; is that correct?

3 THE WITNESS: That is correct, sir.

4 MR. GOOD: Between the time of Mr. Cauley's
5 resignation and this Board order would it occur that this
6 would come as an Order-in-Council rather than as a Board
7 order when you are dealing with the financial aspects of
8 a member of the Board?

9 Do I not understand you correctly that this
10 is done by Order-in-Council rather than by Board order?

11 THE WITNESS: In retrospect it may be that
12 it would have been better had that been an Order-in-Council.
13 It really didn't occur to us at the time that this was
14 necessary.

15 MR. DEANS: It might have been legal the
16 say it is, it might have been more legal, I agree.

17 MR. GOOD: I was interested in that point.

18 Now, a few other things. The consultancy
19 that was done by Mr. Marmash in 1969, I understand they
20 were engaged by a Board order as well?

21 THE WITNESS: Yes, what happened on that
22 case, sir, and I think the Minister of Labour, Mr. Bales,
23 covered it, that point. Since the same firm had already
24 done some previous two years to that top senior positions
25 in Government, he suggested it would be appropriate for
26 them to do the same thing for the Board since there is no
27 way the revenue fund could pay that for us, and it was
28 suggested we should pay that and they could order it
29 accordingly.

30 MR. GOOD: But an Executive order would have

1 to deal with any increase in salary emanating from that.

2 THE WITNESS: The salary adjustments which
3 were approved finally and became part of our accounts
4 were approved by the Treasury Board and by the Lieutenant
5 Governor in Council.

6 MR. GOOD: I don't know whether that order
7 was filed, Mr. Chairman, what was the date of the order
8 in 1969 that hired the firm of Hickling and Johnston and
9 when was it completed and the recommendation acted upon?

10 September, '68?

11 THE WITNESS: September, '68. We are
12 getting the report.

13 MR. GOOD: We were told here it was 1969
14 by Mr. Marmash .

15 Oh, the Board order of hiring, 1968.

16 THE WITNESS: September 13th, 1968, sir.

17 MR. GOOD: Yes, but in June of 1969 no
18 recommendation had been implemented; is that correct? When
19 Mr. Cauley retired no recommendation had been implemented.

20 THE WITNESS: That is right, sir.

21 MR. GOOD: Was it late that fall when the
22 recommendation came through, was it, from Order-in-Council?

23 THE WITNESS: I would have to check that, sir.

24 MR. GOOD: What I am getting at is this:

25 why would a salary increase be retroactive for a two year
26 period, from the fall of '69 -- now it wasn't in effect
27 when Mr. Cauley retired in May of '69 so it came in that
28 fall of '69 and why would it be retroactive to 1967?

29 Doesn't this seem unusual where a salary increase would be
30 retroactive for two years?

1 THE WITNESS: The Board's salary had not
2 been adjusted for some three or four years at that point,
3 and I have already indicated that the earlier work which
4 had been done through the Government itself in its senior
5 positions had been done retroactive to that date some two
6 years earlier.

7 MR. GOOD: Yes, I know, but if you review
8 salaries every few years and make them retroactive two
9 years after they are reviewed you have got a pretty nice
10 thing going.

11 THE WITNESS: Please understand, sir, the
12 Board didn't make any particular representations about
13 this, this was done by an outside consulting firm and they
14 made their recommendations to the Government themselves.

15 MR. GOOD: Yes, after consultation with the
16 Board members we were told as you heard the other day,
17 they consulted with each Board member and yourself and
18 all the senior executives. What I want to ask is, was
19 this two year retroactive period in any way associated
20 with the fact that Mr. Cauley had retired and this would
21 be an increased benefit to him?

22 THE WITNESS: No, it was not, purely
23 coincidental.

24 MR. GOOD: Purely coincidental. All right.
25 Mr. Bales had said both in the Legislature which was
26 reported in Hansard, and here that he had told the Board
27 to resolve their differences and it would appear that they
28 had not. Was it he -- or I shouldn't say was he, but did
29 he take any confidence in you taking it upon yourself to
30 look into the problems of the Board by instructing you to

1 make this trip to Mr. Cauley?

2 THE WITNESS: He didn't instruct me to make
3 this trip as he said.

4 MR. GOOD: Pardon?

5 THE WITNESS: He did not instruct me to
6 make that trip.

7 MR. GOOD: Did he instruct you to -- after
8 he told the Board to resolve their differences, how did you
9 get involved in that? Did Mr. Bales ask you to involve
10 yourself?

11 THE WITNESS: I can't speak for Mr. Bales,
12 sir, but I would expect that he would want me to do the
13 best I could with that problem or any other problem.

14 MR. GOOD: But did he ask you to resolve
15 these differences?,

16 THE WITNESS: No, he did not.

17 MR. GOOD: One other question, Mr. MacDonald,
18 and Mr. Allan was very close to what I was going to ask you.
19 Do you think the operation of the Board would be improved
20 by having a Board of three members that dealt only with
21 the adjudication and some separate and apart officer who
22 dealt with -- the fourth member of the Board who dealt
23 only with the day to day administrative operations of the
24 Board?

25 THE WITNESS: That is a difficult question
26 to answer because of the ramifications of it. I would say
27 that if the volume of claims appeals got greater than they
28 presently are there could be the need to have Board members
29 who deal specifically with claims only and others who deal
30 with administrative matters.

1 MR. DEANS: Well that is very interesting.

2 The point really is that Mr. Legge has said that his
3 administrative responsibilities as Chairman of the
4 Board are particularly more onerous than the responsibili-
5 ties on Mr. Hamilton and Mr. Decker and that it requires
6 that he devote a considerable period of his time to
7 discussion with senior official and he named you as one,
8 the one primarily, although he does speak to the others,
9 and I am really curious now, since you tell me that you
10 do the same kind of thing with the other Board members.
11 Could it be that rather than those things that in fact
12 it is the other related activities that take up so much
13 of Mr. Legge's time?

14 THE WITNESS: I think the essence of what
15 Mr. Legge was saying that in the earlier years of his
16 appointment before we had this kind of functional
17 organization there was a lot of administrative detail.
18 I think he has also said now that we have a functional
19 organization with responsible Vice-Presidents reporting
20 through me to the Board that it is not necessary and
21 that he can spend -- I think he said up to 60% of his
22 time on hearings.

23 MR. DEANS: When did you reach the point
24 of having these people reporting that he is now able to
25 change to a 60% Board hearing ratio?

26 THE WITNESS: I think it was finally
27 achieved during the last year.

28 MR. DEANS: During the last year? When?

29 THE WITNESS: I think our final appoint-
30 ment to a senior position took place about a year ago.

1 MR. DEANS: About a year ago. I don't
2 know the sort of things you know the answers to, to be
3 honest with you. You see, what kinds of decisions then
4 was it that you were unable to make during the period
5 that you were setting up this structure that is now set
6 up that Mr. Legge was required to devote so much time
7 to assisting you?

8 THE WITNESS: Theoretically if I wanted
9 to stick my neck out I could make any decision, but that
10 doesn't answer your question. I just can't help you
11 in relation to what you are looking for; I am not sure
12 what it is.

13 MR. DEANS: You don't know what it is.
14 Okay, I'll tell you. Mr. Legge attended -- in my
15 opinion didn't attend nearly enough of the hearings of
16 the Board. I think it is the opinion shared by a number
17 of other people and Mr. Legge's explanation of why he
18 wasn't there -- and I'm not denying for a moment that
19 he wasn't involved in other things and works very hard
20 -- but Mr. Legge's explanation was that in the first
21 instance he was very much involved in the administration,
22 that he was the principal officer of the Board and as
23 such had a workload in the administrative end of the
24 Board that required him to devote a great deal more time
25 than either of the other Commissioners and second to
26 that he said he was involved in other matters related
27 to but outside the Board operations. Now I frankly
28 want to know why it is that with all of the high-priced
29 help that we have at the Board, including yourself,
30 the Chairman of the Board is required to sit down on a

1 day to day basis and discuss the operations of the Board
2 with the General Manager. Surely it is adequate for
3 the General Manager of the Board to report to the Board
4 on a weekly basis? Surely it would be enough or is it
5 not enough -- would it not be enough for you, sir, to
6 report to the full Board at its meeting on a Tuesday
7 on the activities of the Board and simply seek their
8 confidence in the way in which you have handled the
9 day to day decisions?

10 THE WITNESS: That, sir, is exactly what
11 happened as it relates to policy matters. Mr. Legge
12 just happens to be interested in more of the detail
13 on the day to day administration matters.

14 MR. DEANS: I see, so it's just simply
15 a matter of interest. If he wasn't prepared to allow
16 you to do your job properly then you wouldn't have to
17 have you in there telling him every little detail that
18 was going on, you could spend more time with the hearing
19 of cases and we could cut out the \$39 or the \$36 and
20 some odd cents that we pay to Mr. Poole, \$32.69 that
21 we pay to Mr. Poole every day he sits? Would that be
22 a fair breakdown or is it just a matter of his interest,
23 he likes these things and therefore he stays away from
24 the Board so he can sit and chat with you as to what
25 is going on?

26 THE WITNESS: I didn't say that, sir. I
27 said he has a very sincere interest in it and I think
28 it is useful for the Chairman to know exactly what is
29 going on constantly

30 MR. DEANS: Why is it any more useful

1 for the Chairman of the Board to know what is going on
2 on a day to day basis than the other Commissioners who
3 have equal responsibility under the law?

4 THE WITNESS: I would say, sir, that if
5 they wanted the same kind of total reporting they could
6 have it.

7 MR. DEANS: But if they did it we would
8 never get any hearings. If Mr. Hamilton and Mr. Decker
9 asked you to come in and report to them on the same basis
10 that you report to Mr. Legge we would have to hire two
11 other pro tempore people in order to get the hearings
12 conducted. Now it is obvious to me at least that the
13 Board, considering its corporate structure, is equal
14 in power in terms of its right to make decisions and its
15 right to hear what is going on and I want to know why
16 this Board has been so structured that the General Manager
17 reports daily in the ear of the Chairman while the other
18 two members conduct the hearings, recognizing Mr. Legge's
19 interest in what is going on, but also recognizing his
20 responsibility under the Act?

21 THE WITNESS: I would suggest, sir, that
22 you would ask that question of the other two Commissioners
23 because I try to do the same for them as I do for Mr.
24 Legge to the extent that they wish me to.

25 MR. DEANS: Well, one of the other
26 Commissioners -- I am not going to try to quote him
27 verbatim because I can't recall -- but my recollection
28 was that it was said by one of the other Commissioners
29 that perhaps for his own good and for the good of the
30 Board it would be better if Mr. Legge spent more time --

1 I'm not sure if it was at the Board or at the hearings--
2 less time on the other extracurricular matters. Do you
3 share that view?

4 THE WITNESS: I think Mr. Legge shares
5 that view and has indicated to you that that is what his
6 plan is.

7 MR. DEANS: That is what his plan is. But
8 it is strange how this plan only suddenly develops after
9 the Hearing develops.

10 THE WITNESS: No, I don't agree with that,
11 sir. There has been a conscious change.

12 MR. DEANS: It seems to be a view that
13 has been shared not only by -- it was Mr. Hamilton that
14 said so and I think that he said something close to what
15 I said. Mr. Decker, though not quoted, is reported to
16 have said in the Globe and Mail that he believed Mr.
17 Legge's attitude was the root cause of the trouble at
18 the Board. He is reported to have said that he went
19 to see -- let me just go back a page because I think --

20 "Mr. Decker some learned of the
21 distress and outright hatred that
22 existed in some quarters."

23 Now have you noticed any distrust of Mr. Decker at the
24 Board?

25 THE WITNESS: No, I have not, sir.

26 MR. DEANS: Do you feel that the people
27 at the Board have the utmost faith in Mr. Decker's
28 ability?

29 THE WITNESS: As far as I know, sir.

30 MR. DEANS: Why then would Mr. Decker --

1 well are you familiar with the statement attributed to
2 Mr. Decker who went to see the Labour Minister to tell
3 him something had to be done and something had to be
4 issued from his office, are you / familiar with that statement?

5 THE WITNESS: That is not a statement, sir.

6 MR. DEANS: I say it is a statement in the
7 press that is attributed to Mr. Decker.

8 THE WITNESS: I am familiar with the
9 newspaper article, yes, sir.

10 MR. DEANS: Have you any knowledge of
11 Mr. Decker having gone to the Minister?

12 THE WITNESS: Well I know he has discussed
13 things with the Minister from time to time, but I don't
14 know of that particular interview.

15 MR. DEANS: Has Mr. Decker ever complained
16 to you about the attitude around the Board?

17 THE WITNESS: Mr. Decker feels that things
18 could be improved as Mr. Hamilton does and as I do.

19 MR. DEANS: Has Mr. Decker ever complained
20 to you about the attitude of the Board?

21 THE WITNESS: I would say he has been
22 unhappy about certain things, yes.

23 MR. DEANS: Has he ever raised with you
24 that he thought that Mr. Legge's attitude might be one
25 of the primary causes of the problem?

26 THE WITNESS: That is a difficult question
27 to answer in that I think both of the new Commissioners,
28 after they were appointed, had to be made familiar with
29 the activities of the Board. They had their own ideas
30 how a thing had been done the way they were before and

1 how perhaps they should be done here. As I have said
2 earlier, and there seems to be a criticism of this, my
3 role in this is one of a catalýst of this and I had to
4 make sure everybody's input into what we were doing is
5 understood and dealt with.

6 MR. DEANS: When Mr. Decker speaks with
7 you or Mr. Hamilton speaks with you do you feel any
8 compulsion to discuss the matter with Mr. Legge?

9 THE WITNESS: No, I do not. I do not
10 discuss it with Mr. Legge.

11 MR. DEANS: I take it then you do not
12 discuss it with Mr. Legge?

13 THE WITNESS: If you will ask either of
14 those gentlemen I constantly tell them -- I mean if
15 you have a complaint dealing directly with Mr. Legge
16 deal with Mr. Legge, don't deal with me.

17 MR. DEANS: And you have had some complaints
18 about Mr. Legge?

19 THE WITNESS: I didn't say that. I said
20 there were differences of opinion. But when I find --
21 I will make this clear because this is back in Mr.
22 Cauley's situation, when I find that that communication
23 is not taking place and it is causing a problem, then
24 I do feel an obligation to do something about it.

25 MR. DEANS: Have you felt any obligation
26 to do anything about the existing situation as it is
27 reported to exist -- although I am not too sure that
28 it does -- have you felt it necessary that at any point
29 since the appointment of Mr. Hamilton and Mr. Decker
30 to discuss with them their feelings about the Board and

1 to discuss with Mr. Legge their feelings about the Board?

2 THE WITNESS: Well I think Mr. Hamilton
3 reported that we have made a number of changes to
4 accommodate the thinking of the Commission. So I think
5 that the progress has been made and whatever differences
6 there were have pretty well been resolved.

7 MR. DEANS: Have you ever hired the services
8 of (Daycon)?

9 THE WITNESS: Personally?

10 MR. DEANS: Yes.

11 THE WITNESS: No.

12 MR. DEANS: I'm only interested in what
13 you do with the Board.

14 THE WITNESS: No, the Company hasn't done
15 anything with the Board.

16 THE CHAIRMAN: Mr. Allan?

17 MR. ALLAN: Mr. Chairman, I wonder if I
18 could ask Mr. MacDonald first of all, by whom are you
19 appointed?

20 THE WITNESS: I am appointed by the Board,
21 sir.

22 MR. ALLAN: By the Board?

23 THE WITNESS: I am an employee of the Board.

24 MR. ALLAN: It was mentioned here at one
25 of the sessions that four persons were appointed by Order-
26 in-Council. Who are the four?

27 THE WITNESS: No, I think the statement,
28 sir, was that the salaries of Board people were established
29 by Order-in-Council and mine is one of the four salaries,
30 but I am an employee of the Board.

MR. ALLAN: Well, I am -- I don't want to

1 deal in personalities, I am more interested in getting
2 your views with respect to the organization of the Board
3 and I don't want to embarrass you. If I ask you something
4 that you feel is embarrassing I hope you won't answer.
5 But I have a little bit of difficulty in understanding
6 the role you take of a peacemaker in the Board with the
7 members of the Board. I am wondering what the respon-
8 sibility of the Chairman should be in that connection?
9 You, an employee of the Board, I have difficulty feeling
10 that you should have that responsibility.

11 THE WITNESS: Frankly, sir, I don't
12 particularly enjoy having to do it from time to time. I
13 know one could get the impression that it is a constant
14 job of mine. I started at the bottom of the organization
15 and worked my way to the top of it. I spent my life
16 and I wanted it to be the best organization of its kind
17 in the world and I say as a matter of dedication when
18 I see a problem that is not being resolved I feel I
19 should do something about it.

20 MR. ALLAN: Problem, yes, a problem, and
21 the organization or the administration of the Board, I
22 could understand where you could make suggestions in
23 that area, but I have difficulty in realizing that the
24 Board is performing the function it should perform if
25 it's necessary for you to become involved in the bringing
26 of the Board and the understanding of the members of the
27 Board together.

28 THE WITNESS: Well, may I turn that
29 question around, sir? Has a Deputy Minister ever come
30 to you with a problem and tried to help you to resolve it?

1 MR. ALLAN: A Deputy Minister and a
2 Minister is a different thing. Here is a Board which
3 is an autonomous body.

4 THE WITNESS: I say, sir, that a good
5 Deputy Minister or whatever dealing in any organization
6 will do the best he can with the problems that come to
7 him and it may on occasion put him in the embarrassing
8 position of giving advice to somebody who was in fact
9 senior to him.

10 MR. ALLAN: Well, to follow this a little
11 bit further, having listened to all of the statements
12 that have been made here and the efforts on the part of
13 very many people to try to say that all members of the
14 Board are equal. Some say all should be paid the same
15 salary; that the Chairman doesn't have or does have more
16 responsibility than the members of the Board; are you
17 sure that the most efficient way of handling the affairs
18 of the Workmen's Compensation Board is to have that
19 decided responsibility of three members?

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1 MR. GOOD: Do you always feel there should
2 be some Board involvement in the administration of the
3 operation?

4 THE WITNESS: I don't believe that any one
5 individual like myself should be operating without someone
6 to help them with policy.

7 MR. DEANS: You don't set policy?

8 THE WITNESS: Pardon?

9 MR. DEANS: You don't set policy?

10 THE WITNESS: I do not set policy.

11 MR. DEANS: You don't need help with it?

12 THE CHAIRMAN: Mr. Good had before.

13 MR. GOOD: Yes, on that point -- so then
14 it is possible that you would see a separate three-man
15 board to deal with adjudication and a fourth member that
16 would look after the operation of the Board or be
17 responsible as a fourth member of the Board for operation
18 as a means of eliminating some of the perhaps onerous
19 tasks of the present chairman of the Board who must exert
20 his influence in both directions, for which he has come
21 under a considerable amount of criticism by neglecting
22 one in favour of the other, apparently neglecting one.

23 THE WITNESS: Answering your question, I
24 think there is -- there is two separate functions which
25 have to be dealt with and, therefore, there needs to be
26 an organization which can deal with them separately.
27 I am not saying that the present three-man Board can't
28 deal with it adequately.

29 MR. GOOD: Thank you, Mr. Chairman.

THE CHAIRMAN: Have you completed?

1 MR. GOOD: Yes, thank you.

2 THE CHAIRMAN: Mr. Wiseman?

3 MR. WISEMAN: Yes, I have four or five
4 questions but they have been asked so I won't repeat
5 them. Mr. Good touched on it but in 1969 when the reviews
6 of salaries of the Board and the three members of the
7 Board signed the order, the man that was here the other
8 day told us after that he received phone calls to review
9 it in '70 and '71. As administrator, would the phone
10 calls have come through your office or by you?

11 THE WITNESS: As far as it relates to
12 the Board members and myself, that was the instruction
13 that he got from, I presume, the Treasury Board, not from
14 us. We did not ask them to review our salaries.

15 MR. WISEMAN: In '70 or '71?

16 THE WITNESS: Seventy or seventy-one.

17 MR. WISEMAN: Do you have a work order --
18 does a work order come through, similar to the one in
19 '69, through your office?

20 THE WITNESS: There isn't a separate order
21 for those particular deals.

22 MR. WISEMAN: Isn't it customary to do so?

23 THE WITNESS: We had the firm do certain
24 other salaries at the more junior levels which there is
25 an order for and which the report came to us about, but
26 there is no request from us to review Board members'
27 salaries or my salary.

28 MR. WISEMAN: And would the Board pay the
29 \$69,000.00 in the previous years, in '70 and '71 and,
30 if they did, would it not be a work order? The gentleman

1 told us the other day that the cost of the survey in
2 1969 was between \$69,000.00.

3 THE WITNESS: He would be referring to the
4 cost of the total survey for all of the salaries.

5 MR. WISEMAN: In that particular year?

6 THE WITNESS: In that particular year, yes.

7 MR. WISEMAN: But in '70 and '71, would
8 you not pay it again and, if you did, would you not have
9 an order to cover that expense?

10 THE WITNESS: There is an order pertaining
11 to other salaries and that is for staff salaries in '70-
12 '71 and there is a separate invoicing for that but, to
13 my knowledge, we have never been billed and I don't know
14 whether -- you could probably ask Mr. Marmash -- I don't
15 know whether we were ever billed for the work they did
16 as it relates to the Board members' salaries because it
17 was part of a total order. I think Mr. Marmash has
18 probably answered that question. I have never asked him.

19 MR. WISEMAN: He couldn't tell us the other
20 day who authorized it other than it came in the form of
21 a telephone call so I thought perhaps you, as administrator,
22 and you seem to have your finger on so much that you would
23 be able to answer that.

24 THE WITNESS: Well I specifically report
25 to you, sir, that there was a Board order giving them the
26 authority to do work on other than Board members' salaries
27 and there was an invoice that was paid by the Board.

28 MR. DEANS: There is also a Board order
29 dealing with Board members' salaries too on file?

30 THE WITNESS: No, that is the first one.

1 MR. DEANS: The first one?

2 THE WITNESS: The first one.

3 THE CHAIRMAN: Have you completed?

4 Mr. Miller, do you have a brief question?

5 MR. MILLER: Well, would you like me to
6 stop in the interests of time?

7 THE CHAIRMAN: Well, that could be.

8 MR. MILLER: Fine.

9 MR. DEANS: Mr. Chairman, before we rise
10 I want to ask the Committee to consider something and
11 this is not referring to a question. I would like to ask
12 the Committee if they would ask our counsel to refer to
13 the Attorney General's Department the matter of the
14 legality of the payment by the Board of the monies to
15 Mr. Cauley by Board order after his retirement or after
16 his resignation which was effective May 1st. I would
17 like to ask if the Committee feels this would be an
18 appropriate time for us to get an opinion of the Attorney
19 General's Department as to the legality of that particular
20 matter since we obviously can't -- I don't think we can
21 come to that conclusion ourselves.

22 MR. GOOD: Would this not be part of a
23 recommendation if we wanted to discuss, we would have to
24 discuss -- it could, in my view, be part of a recommen-
25 dation at the end of the hearing.

26 MR. DEANS: I just thought we needed it
27 to continue the hearings, that's all.

28 THE CHAIRMAN: We can continue it tomorrow
29 morning.

30 Mr. Lewis, did you have a few questions?

1 MR. LEWIS: I have a few brief matters.

2 THE CHAIRMAN: Just how brief?

3 MR. LEWIS: I thought they should be
4 answered tonight or there may be difficulty in the press
5 tomorrow and I will tell you why.

6 The first is that I think Mr. MacDonald
7 should tell the Committee how he recorded the conversation,
8 the telephone conversation, because there is more than
9 one method. One method clearly violates the law as it
10 presently exists; the other is a different fashion and
11 there will be speculation, I have no doubt, as to the
12 method by which the conversation was recorded and I think
13 it is in Mr. MacDonald's interest to tell the Committee
14 how in fact he did it. Secondly, I think because of the
15 speculation which will follow without in any sense
16 compromising the incident or the person involved, that
17 he should indicate briefly the reporter and the paper,
18 otherwise he is opening up the situation to end the
19 speculation.

20 If I understand it correctly, if wires
21 were in fact crossed and that is what is happening,
22 that is a violation of the code.

23 THE CHAIRMAN: I will leave that to
24 Mr. MacDonald.

25 Counsel, did you wish to address something
26 through Committee counsel?

27 THE WINDS: I am in the hands of the
28 Committee. My advisor tells me I really shouldn't
29 answer but I am quite prepared to answer if you wish
30 me to.

1 MR. DEANS: Please go ahead.

2 THE CHAIRMAN: What is the question again,
3 Mr. Lewis?

4 MR. LEWIS: The question is what was the
5 device used by which the conversation was recorded? What
6 did you do, hook something up to a telephone?

7 MR. AUSTIN: Mr. Chairman, may this witness
8 have the protection of the Canada and Ontario Evidence
9 Acts?

10 MR. LEWIS: He has, I believe.

11 THE CHAIRMAN: I would have to be directed
12 by counsel.

13 MR. DONNELLY: I think he gets it auto-
14 matically by invoking it and therefore I think I would
15 automatically answer yes, sir.

16 THE CHAIRMAN: Yes, he has.

17 MR. AUSTIN: The witness is objecting to
18 answering but you are to direct the answer. That is
19 the formula, I believe, Mr. Chairman.

20 THE CHAIRMAN: I understood him to say
21 that if he must he would.

22 MR. AUSTIN: Correct, but you have to
23 direct him, as I understand.

24 THE CHAIRMAN: Is it the wishes of the
25 Committee that Mr. MacDonald answer?

26 MR. ALLAN: Mr. Chairman, could we have
27 the advice of our counsel?

28 MR. DONNELLY: Well, the position has
29 been taken that to have a technical compliance I think
30 with the request for protection, that the statements

1 should originate actually with the witness rather than
2 from his client so the protection can be afforded.

3 MR. LEWIS: You mean Mr. MacDonald should
4 ask the question?

5 THE WITNESS: I do object to answering
6 if that is the question, sir.

7 MR. DONNELLY: On being instructed by the
8 Chairman to answer then, sir.

9 THE CHAIRMAN: I ask for direction from
10 Committee on this.

11 MR. DONNELLY: Once the protection is
12 properly asked for and available to the witness, I don't
13 see any reason why the witness can't answer, with respect,
14 sir.

15 THE WITNESS: Might I ask Mr. Lewis then
16 to rephrase the question. There were two parts of it and
17 I would like to hear the second part.

18 MR. LEWIS: Well the first part -- the
19 second part of the question is, what is the name of the
20 journalist and to which newspaper I presume or electronic
21 or linear media was he attached or she attached? I am
22 by that specifically excluding any reference to the case
23 itself -- those are the two questions, what was the
24 recording device which was used and with whom was the
25 conversation taken?

26 THE WITNESS: I don't really feel that that
27 question ---

28 THE CHAIRMAN: Mr. MacDonald, I am told
29 that you must ask the Chairman personally if you have the
30 protection of the Canada Evidence Act and your counsel

1 has but you have not done so personally.

2 THE WITNESS: Do I have that protection,
3 sir?

4 THE CHAIRMAN: You do, sir.

5 MR. NEWMAN: Through our counsel I would
6 like to have that checked out, Mr. Chairman, to see if
7 he really does have it in this particular Committee, if
8 he really does have the protection of the Canada Evidence
9 Act. I think there is some doubt about it.

10 MR. DONNELLY: With respect, I think the
11 position is that automatically being summonsed and sworn
12 is the evidence before you is privileged and
13 he has the right if he complies with the section to ask
14 for the protection of Section 5 of the Canada Evidence
15 Act. There is just some discussion here as to whether
16 he has technically complied with the requirement and (a)
17 as to whether or not he should ask for it himself and
18 that (b) he should follow the words of that, that is,
19 it simply says "no witness shall be excused from answering
20 any question on the ground that the answer to such
21 question may tend to incriminate him or may tend to
22 establish his liability to a civil proceeding at the
23 instant of the Crown or by any other person."
24 And if he objects to those rules, sir, he is then directed
25 by the Chairman, it is my respectful submission that he
26 is entitled to the protection from the section.

27 MR. ALLAN: Mr. Chairman; does counsel
28 think that the very words must be used; can we not use
29 the planned protection of the section as such?

30 MR. DONNELLY: Well, I don't want to impose

1 my own interpretation on such a matter when he may just
2 as easily ask in the words of the section and then there
3 is no misunderstanding.

4 MR. LAWLOR: Fine.

5 MR. AUSTIN: The witness is prepared to
6 answer, Mr. Chairman.

7 THE WITNESS: The reason I don't want to
8 say that is I just don't want to infer that I think that
9 I am incriminated. I found I had a good reason for doing
10 this under the occasion because of the importance of the
11 matter. Now answering your question specifically, I was
12 not dealing with the journalist concerned as a newspaper
13 reporter but rather as it related to his personal
14 relationship with a member of my staff who was involved
15 in this investigation and I think you are probably well
16 aware of that, sir.

17 MR. LEWIS: No, I am not at all, not in
18 the slightest, let me tell you. But I see that that is a
19 reason which you may choose for not wishing to use a name.
20 That is fine. Now what about the first part?

21 THE WITNESS: The man's name was Wesley
22 Hicks.

23 MR. LEWIS: May I ask you about the first
24 part which interests me more, about the device you used?

25 THE WITNESS: The device, as I recall, was
26 a Phillips telephone tape recorder, simply attaches to
27 the device itself -- to the telephone.

28 THE CHAIRMAN: Your question has then
29 been answered, Mr. Lewis?

30 MR. LEWIS: Yes, Mr. Chairman.

1 THE CHAIRMAN: We adjourn until tomorrow
2 morning then at 10:00.

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4 --- Upon adjourning at 10:35 p.m.

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8 CERTIFIED CORRECT:

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1 --- Upon commencing at 10:20 a.m.

2 THE CHAIRMAN: I call our meeting to order
3 and we will carry on from where we left off last night.

4 MR. DONNELLY: Mr. Chairman, again there
5 is a preliminary matter I would ask leave to raise.
6 Counsel has appeared this morning for Mr. Dowding and
7 the same Counsel I think for Mr. Tatian, two of the
8 witnesses subpoenaed asked to appear tomorrow morning
9 and Counsel has advised me that he was instructed
10 originally yesterday and he asked firstly if he might
11 have a copy of the transcript, and secondly, if his
12 clients might be excused from testifying tomorrow morning
13 and put over to next week, and so he may have an opportunity
14 to review the evidence and consider whatever procedure
15 should be adopted on his clients' behalf.

16 THE CHAIRMAN: I am sure the Committee
17 would be agreeable to accommodate him, and the Clerk will
18 supply a copy of the transcript.

19 MR. DONNELLY: Thank you, sir.

20 ALAN MacDONALD, resumed:

21 THE CHAIRMAN: Mr. Deans?

22 MR. DEANS: Mr. MacDonald, I want to go
23 back to the final discussion last evening. I have thought
24 a bit about it and I would like to ask you two or three
25 questions surrounding the matter of the tape recorded
26 message. Were you aware that there was going to be a
27 call to your office from the reporter in question?

28 THE WITNESS: He had previously called me,
29 yes.

30 MR. DEANS: And said that he was going to

1 call you again for the purpose of discussing the matter or
2 for whatever reason it was?

3 THE WITNESS: Yes, sir.

4 MR. DEANS: And so you arranged to have
5 the tape recording mechanism set up for that purpose?

6 THE WITNESS: Yes, I did.

7 MR. DEANS: You hadn't had them there
8 previously?

9 THE WITNESS: No.

10 MR. DEANS: You haven't had them there
11 since?

12 THE WITNESS: No, I have not.

13 MR. DEANS: Without going into the details
14 how long
15 of the matter, was there between the time that Mr. Hicks
16 was going to call and you set up the mechanism and the
17 time he actually did make the call, and you had it
18 dismantled?

19 THE WITNESS: As I recall, some time within
20 24 hours.

21 MR. DEANS: About within 24 hours?

22 THE WITNESS: Yes.

23 MR. MILLER: One of the questions that I
24 would like to ask relates again to the Globe and Mail
25 article of the 7th in which reference is made to a tape
26 recording. I understand in the section of the Act that
27 the Commissioners must devote full time to their duties.
28 Is this true of employees?

29 THE WITNESS: Certainly, sir.

30 MR. MILLER: I was trying to reconcile then
the statement that Mr. Draper was president and owner of

1 Draycon Communications despite the fact he was spending
2 full time as an employee of the Board.

3 THE WITNESS: I really think Mr. Draper
4 should give evidence with regard to this particular point,
5 but the point is Draycon has been an inoperative company
6 in all the years that he has been at the Board as far as
7 I know.

8 MR. MILLER: So it's not in fact a
9 functioning company at the present time?

10 THE WITNESS: It is not, sir.

11 MR. MILLER: You feel there is no conflict?

12 THE WITNESS: Not to my knowledge, sir.

13 MR. MILLER: We are in a military environment
14 at times they say and that swinging the lead is one of the
15 military expressions I have heard used. Would you say
16 that the apparently generous program for early retirement
17 was at all aimed at helping you remove some of the people
18 that may have been adept to that old pas

19 THE WITNESS: Well, may I say this; that
20 kind of program I think is in vogue in most private
21 companies, in other Government departments and it does
22 two things; it gives you the opportunity to allow those
23 people who are in fact sick to retire early; it allows
24 you to create promotion opportunities when people request
25 that kind of treatment, and I think on an overall basis
26 it is a healthy kind of thing to have at the top to keep
27 any company active and healthy, any organization active
28 and healthy.

29 MR. MILLER: I tend to agree that every
30 company has something along these lines no matter what the

1 program may be, whether it is early retirement or any
2 other matter, so I tend to agree with you.

3 May I ask, though, you became General
4 Manager or Executive Manager in 1967. This is two years
5 after Mr. Legge became Chairman I believe.

6 THE WITNESS: That's right.

7 MR. MILLER: Do you feel that a considerable
8 reorganization of senior staff had been necessary?

9 THE WITNESS: Remembering the fact that I
10 had been in the organization for 25 or more years, I think
11 that it was necessary to get the kind of organization
12 that delegated responsibility clearly, that set up a
13 reporting process that the Board members would know
14 exactly what was going on rather than the kind of
15 situation before where the Board members themselves
16 divided up the responsibilities into different areas.
17 I think that was very necessary and I think it was very
18 effective.

19 MR. MILLER: In other words, was it necessary
20 in a sense to remove some of the stumbling blocks in the
21 way of implementing the new appeal system to go through
22 this reorganization of staff too?

23 THE WITNESS: I think we are talking about
24 two separate problems; we are talking about the administration
25 as it relates to dividing up functional responsibility
26 and over here we are talking about the appeal procedure
27 which is entirely separate. The people in the appeal
28 procedure are not involved in the administration and I feel
29 very definitely; as I have said last night I believe that
30 it was necessary to create an appeal procedure which provided

1 a number of new factors which would provide the notice of
2 the right to appeal, which provided the facts and the
3 backgrounds concerning the situation for a decision that
4 was made, so that the persons knew what facts they were
5 facing at the next level of appeal.

6 MR. MILLER: You mentioned several times
7 you met with Mr. Cauley at his home because you were
8 (a) concerned with his health, and (b) felt that he was
9 the -- well, let's say in the way of the new appeal
10 system and causing dissension in the Board.

11 Is that a fair summary?

12 THE WITNESS: I am not saying that he
13 caused a great deal of dissension. I think he believed
14 so honestly that the former system was better and
15 therefore expressed that opinion from time to time, and
16 influenced other people to express it, that it was
17 causing a problem.

18 MR. MILLER: Well, what were your concerns
19 about his health?

20 THE WITNESS: I think I stated that Mr.
21 Cauley and I worked together for a lot of years. Then and
22 now I am concerned about Mr. Cauley's health.

23 MR. MILLER: Are we talking about his
24 heart attack?

25 THE WITNESS: Well I am not a doctor, sir,
26 and therefore I don't think I should try and analyze
27 what his health problems are. I will tell you honestly
28 that I was concerned about Mr. Cauley then and now.

29 MR. MILLER: All right, I will leave my
30 other questions unsaid.

1 That is all, Mr. Chairman.

2 THE CHAIRMAN: Mr. Allan?

3 MR. ALLAN: Well, Mr. MacDonald, if I could
4 come back to our discussion last night with respect to
5 your visit to Mr. Cauley's home and the matter of the
6 tape recording that was discussed. As I remember your
7 answer it was that those would not be words that you would
8 use. I wonder if I am to understand -- or the Committee
9 rather is to understand -- that in your opinion that
10 tape recording doesn't represent the conversation.

11 THE WITNESS: That is my opinion, sir.

12 MR. ALLAN: That was all.

13 MR. DEANS: Mr. MacDonald, if the tape
14 recording doesn't represent the conversation then Mr.
15 Cauley is lying under oath.

16 THE WITNESS: You put me in a very difficult
17 position. I am telling you as honestly as I can that I
18 know what my intent was when I went to see him and
19 therefore I have to tell you in the best of my belief
20 that that document which I --you know, I find it very
21 difficult to comprehend. It doesn't in fact represent
22 what happened. Now it may well be to the best of
23 someone else's recollection his interpretation of what
24 happened.

25 MR. DEANS: It's not a matter of recollection.
26 What it is is in fact that those are the words that were
27 on the tape. I suppose really, you know, some of what is
28 written is obviously in keeping with what you said; that
29 I am interested -- let me just read the material, parts
30 of it. I am assuming -- I may not have the right to

1 I assume this but I am assuming that the first paragraph
2 is intended to imply that Mr. Cauley said, "Get away,
3 get away, Buster," Buster being his dog if I remember
4 correctly.

5 THE WITNESS: I don't even recall the dog
6 being present.

7 MR. DEANS: I believe he wouldn't have
8 been referring to you as Buster.

9 He said, "Go sit down. Well, Al, what
10 brings you all the way over to this famous
11 suburb this afternoon."

12 That sounds just like Jack Cauley. The answer -- I
13 assume that this is the answer given by someone, and
14 Mr. Cauley claims that it was by you.

15 "I am interested in how you are feeling.

16 I know a lot of the Board are wondering
17 just how you are making out."

18 That seems to be the gist of what you said or you felt
19 that people were worried and you went over to see how
20 things were. And the conversation appears to go on and

21 say, "Well I'm glad of the interest but I can't
22 understand it. Surely after all the years
23 I have been around that place I should be
24 able to take a weeks holiday without
25 so many people wondering how I am."

26 The part that bothers me is, are you really saying that
27 you categorically deny having said what is on this
28 affidavit?

29 THE WITNESS: I think I would have to say
30 that that is what my position is, sir.

1 Let us remember that there have been a
2 number of versions of this interview before, and they have
3 changed rather dramatically from time to time.

4 MR. DEANS: Yes, I am not concerned about
5 the versions of the interview, I am just concerned that
6 this is so definite in each statement. It says certain
7 things; it says by a statement of this Mr. Rigonetti
8 that "While transcribing the tape received from Mr. Cauley
9 in regard to manuscripts of Politics in Canada the
10 following excerpt was on this said tape," and Mr. Cauley
11 most definitely relates it to your visit to his home.
12 And it is not a matter of Mr. Cauley recalling from, you
13 know, over the years what was said, nor is it a matter
14 of Mr. Rigonetti apparently -- at least as far as this
15 affidavit is concerned -- it's not a matter of Mr.
16 Rigonetti simply saying that on Mr. Cauley's notes there
17 were comments to this effect or notations to this effect.
18 What Mr. Rigonetti says is that on the tape these things
19 were said. Would you have any reason to think that Mr.
20 Cauley might have some hard feelings sufficiently strong
21 to justify saying that this was done if it wasn't?

22 THE WITNESS: I can't speak for Mr. Cauley,
23 sir. I can simply recall to the best of my recollection
24 and memory what happened, and as far as I was concerned
25 I know very definitely I was not there at the behest of
26 the Board or the Minister, I was there because of my
27 concern in relation to my capacity to try to resolve the
28 problem. I was concerned about Mr. Cauley's health, I
29 state that definitely and I state that I still am, and
30 therefore what I was trying to do to the best of my ability

1 was resolve the differences of opinion and get Mr. Cauley
2 back on the team which I said last night.

3 MR. DEANS: Did you ever talk with Mr.
4 Cauley about his health subsequent to this visit to his
5 home?

6 THE WITNESS: Yes, as a matter of fact I
7 have.

8 MR. DEANS: Did you talk to him at any
9 time between the time of the visit and the time some few
10 weeks later when he resigned from the Board?

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1 THE WITNESS: Mr. Cauley and I have talked
2 over the phone on a number of occasions in the interval.

3 MR. DEANS: During that period?

4 THE WITNESS: Since he in fact did resign.

5 MR. DEANS: I am not concerned so much
6 about the discussions since he resigned. Did you talk
7 with Mr. Cauley during the period between the time of your
8 visit to his home in Ancaster and the time that he tendered
9 his resignation on May 12th?

10 THE WITNESS: No, I did not, sir.

11 MR. DEANS: You didn't?

12 Did you tell -- after you had been to see
13 Mr. Cauley what kind of a report did you make to Mr. Legge?

14 THE WITNESS: I didn't make any report.

15 MR. DEANS: You didn't discuss with Mr.
16 Legge the visit to Mr. Cauley?

17 THE WITNESS: Not immediately, no.

18 MR. DEANS: Did you discuss it with him
19 prior to May 12th?

20 THE WITNESS: I don't recall doing so, sir.
21 I may have, but I don't recall.

22 MR. DEANS: Did you discuss it with the
23 Minister?

24 THE WITNESS: No.

25 MR. DEANS: You just simply went over and
26 chatted with Jack Cauley and came back and that was the
27 end of it?

28 THE WITNESS: I was hoping that the visit
29 would be beneficial and resolve the problem.

30 MR. DEANS: Did you feel that Mr. Cauley was

1 -- was he visibly ill?

2 THE WITNESS: Again I ---

3 MR. DEANS: I recognize you are not a
4 doctor, but if you look at somebody -- did he look any
5 different from the way he looked the week before?

6 THE WITNESS: He looked very relaxed, very
7 happy. I couldn't say that I felt that he was in any
8 distress.

9 MR. DEANS: He didn't look under particularly
10 any stress or ill at that time?

11 THE WITNESS: Not to me, sir.

12 MR. DEANS: It seems strange because not
13 many days later he appeared on the doorstep of Mr.
14 Eberlee who thought that he was looking a bit piqued
15 to say the least.

16 THE WITNESS: Not having been present I
17 couldn't comment on that.

18 MR. DEANS: There could have been a rather
19 major ---

20 THE WITNESS: He could have been agitated.

21 MR. DEANS: He couldn't have been agitated
22 as a result of your visit, it would be something else?

23 THE WITNESS: Well, sir, I state categorically
24 that nothing that I ever said to Mr. Cauley should have
25 agitated him, in my opinion.

26 MR. DEANS: Just to clear up in my mind,
27 the matter of his doctor's reporting to the Board, was
28 it the practice of his doctor to report to the Board
29 each time Mr. Cauley attended him?

30 THE WITNESS: That would be an exceptional

1 report. It doesn't normally have to be. It was done by
2 the doctor and not at our request.

3 MR. DEANS: Mr. Cauley's doctor called the
4 Board according to a statement of one of the Board
5 physicians, and that was transmitted by Mr. Powell to
6 you. Why would it be necessary for Mr. Powell to tell
7 you that the doctor Mr. Cauley had called?

8 THE WITNESS: I think I gave evidence
9 last night, sir, to the effect that I have an understanding
10 with the people reporting to me that exceptional matters
11 should be reported to me and in writing because there is
12 a lot of detail.

13 MR. DEANS: Are there other records in the
14 interdepartmental communications of Mr. Cauley's doctor
15 to call the Board and inform them that Mr. Cauley had
16 been in to see him?

17 THE WITNESS: Not that I can recall.

18 MR. DEANS: Is there any evidence anywhere
19 of the Board being followed up on the call to determine
20 the result of Mr. Cauley's visit with the cardiac consultant?

21 THE WITNESS: There are no written reports
22 to my knowledge but I am quite certain that Dr. Powell would
23 have had a subsequent conversation with the doctor concerned
24 because we are concerned about our people's health.

25 MR. DEANS: Why would there be no written
26 report on the result of the cardiac consultant's examination
27 to you, since in fact as you say there was a sort of
28 standing -- an understanding it not an order that matters
29 of this importance be referred to you in writing.

30 THE WITNESS: I would have to assume that

1 Dr. Powell didn't feel that the subsequent follow up or
2 whatever he did carry out was that important, sir.

3 MR. DEANS: Wouldn't you have thought that
4 to
5 it was just as important to relay/you Mr. Cauley's clean
6 bill of health as it was that he had an elevated blood
7 pressure considering your interest in his health?

8 THE WITNESS: Well I think you have to
9 realize that in the intervening period -- and I am only
10 assuming this -- Mr. Cauley in fact did decide that he
11 should resign.

12 MR. DEANS: My understanding was that
13 Mr. Cauley had seen -- and I may be wrong -- but my
14 understanding was that Mr. Cauley had seen the cardiac
15 specialist prior to his resignation.

16 THE WITNESS: I don't know that, sir.

17 MR. DEANS: My recollection is that he
18 did in fact see the cardiac specialist prior to his
19 resigning from the Board, and that that information would
20 have been relayed immediately to his physician who in
21 turn in his normal practice would have called the Board
22 and in turn would have written a memo to you.

23 THE WITNESS: I think if those are the facts
24 of the situation it would have happened that way, but I
25 don't know that that is what happened.

26 MR. DEANS: Let me ask you, did you feel
27 that the Board would function better after Mr. Cauley
28 retired -- resigned -- retired?

29 THE WITNESS: No, sir, I state categorically
30 again that Mr. Cauley had for a number of years been a
very effective Board member and I state now as I stated

1 then, I felt he could continue to be that. I just felt
2 that he didn't realize that times had changed and there
3 was a need for certain improvements in the procedure.

4 MR. DEANS: There wasn't sort of any feeling
5 on your part that, "Well, at least that solves that
6 problem."

7 THE WITNESS: I state categorically that
8 Mr. Cauley has been one of the best Board members we have
9 ever had, could have continued to be so had he been able
10 to accept the changes which, in my opinion, were necessary
11 and which I tried to convince him about.

12 MR. DEANS: If he hadn't been prepared to
13 accept the changes, his relationship with the Board
14 would have been strained?

15 THE WITNESS: We could have continued with
16 the differences of opinion.

17 MR. DEANS: The differences of opinion --
18 it's interesting, the differences of opinion never did
19 reflect as I recall you said, and I think Mr. Legge said
20 the same thing, on the actual operations of the Board as
21 it affected the rights of the workers.

22 THE WITNESS: No, no Board member allowed
23 that kind of difference of opinion to affect decision
24 making or the rights of workmen, very definitely no.

25 MR. DEANS: Did Dr. Steele ever talk to
26 you about the changes at the Board?

27 THE WITNESS: Naturally.

28 MR. DEANS: Did he express displeasure or
29 unhappiness or doubt about the change?

30 THE WITNESS: Well, we were talking about

1 kinds of change. The Board members have been used to a
2 certain system for X number of years, it doesn't much
3 matter how long it was -- naturally they wonder about the
4 effect of those changes and, yes, Dr. Steele did wonder
5 about ---

6 MR. DEANS: This may be extraneous, but
7 I want to make it clear to you I happen to think the
8 changes are as well, but I don't want to make the case
9 against the old system, but did Dr. Steele ever express
10 to you that he felt he frankly didn't want to carry on
11 under the system?

12 THE WITNESS: Not because of the changes.

13 MR. DEANS: Do you think the pressure of
14 the work became necessarily greater under the changes?

15 THE WITNESS: No, Dr. Steele was not well
16 and if you are asking the question did he want to pick
17 it up and go home and I think he did, but not for the
18 reasons of change but rather for the reasons of health.

19 MR. DEANS: Do you have a record of Dr.
20 Steele's sick time by the way? Is there a record of
21 his attendance credits available, say, over the two and
22 a half years prior that he took the two years leave?

23 THE WITNESS: I am sorry, I didn't hear
24 you, sir.

25 MR. DEANS: Is there a record of Dr. Steele's
26 attendance? Do you have it?

27 MR. DONNELLY: I think it is filed.

28 MR. DEANS: The other matter is a matter I
29 asked about last night -- this is getting long and I am
30 beginning to have trouble remembering what I did ask last

1 night. I asked for additional documents and I can't
2 recall. Oh yes, I remember. The matter of the pension
3 plan, I just want to be clear on that again. How often
4 is the plan tested in terms of its actuarial ---

5 THE WITNESS: There is an annual actuarial
6 evaluation.

7 MR. DEANS: And we would be able to have
8 it made available?

9 THE WITNESS: You asked for it last night
10 and we are going to get it.

11 MR. DEANS: You are going to get it within
12 the next day or two?

13 THE WITNESS: Yes.

14 MR. DEANS: Thank you very much.

15 THE CHAIRMAN: Mr. Good?

16 MR. GOOD: Just one short question. I just
17 noticed, Mr. MacDonald, when you were talking about the
18 one incident of when a tape recording was done you
19 ever used a
20 replied when asked if you/ recording device on any other
21 occasion. I believe your answer was as far as for Board
22 business is concerned which is once. Would you imply by
23 that answer that you have recorded telephone messages but
24 not while at the Board?

24 THE WITNESS: I think I was referring to
25 the use of the device as it relates to Board employees.
26 I have never used the device on any other occasion than
27 the one that I have reported.

28 MR. GOOD: So your answer then, only once
29 as far as Board business was concerned didn't imply that
30 you used it in other ---

1 THE WITNESS: No.

2 THE CHAIRMAN: Have you completed, Mr. Good?

3 MR. GOOD: Yes, Mr. Chairman.

4 THE CHAIRMAN: Mr. Gaunt?

5 MR. GAUNT: Mr. Chairman, I would like to
6 ask Mr. MacDonald, I think you implied that as far as
7 Mr. Cauley was concerned, given his very strong views
8 with respect to the new appeals system, he was trying to
9 drum up support for his position and that you didn't use
10 those words but the implication was there. Was this
11 seeking support extended to the staff to actually make
12 concerted attempts to seek support for his position
13 among staff members?

14 THE WITNESS: Mr. Cauley's attitude about
15 the system I think was well known to the staff members
16 as well as others. Whether in fact they could be construed
17 as secret support I can't really say. I say to you that
18 Mr. Cauley I think quite sincerely believed that what he
19 expected to happen was going to happen and I think he
20 told me that.

21 MR. GAUNT: Did you know anything about Mr.
22 Cauley's activities with respect to the labour unions and
23 the promotion that he was doing among them to have any
24 particular labour unions rejecting the new appeal system?

25 THE WITNESS: I can only say that the Board
26 did have delegations come in from certain labour unions
27 which seemed to support Mr. Cauley's position.

28 MR. GAUNT: Do you think that they were
29 urged to do so by Mr. Cauley?

30 THE WITNESS: I don't think that is a fair

1 question of me, sir. I think you should ask those people
2 where their attitudes come from. I say to you this; that
3 what they were suggesting was going to happen was not in
4 any way demonstrated by performance.

5 MR. GAUNT: There were some rather caustic
6 comments made by some of the labour unions at that time
7 in 1969-1970 with respect to the new appeal system. Do
8 you think that their position has changed in the ensuing
9 period?

10 THE WITNESS: Yes, I believe it has, sir.

11 MR. GAUNT: So that the Trades Council of
12 Ontario and the other two unions which expressed very
13 grave doubts at that time, they are no longer critical
14 of the new system; they feel that it is working properly?

15 THE WITNESS: As far as I know, sir.

16 MR. GAUNT: All right.

17 THE CHAIRMAN: Any other questions from the
18 members?

19 MR. DEANS: Did you ever visit Dr. Steele
20 and see how he was?

21 THE WITNESS: Yes, I did, sir.

22 MR. DEANS: How was he? He didn't happen
23 to drop by to see you; he seemed to take an extended visit
24 all over the world.

25 THE WITNESS: I have always had a very
26 various
27 cordial relationship with the / Board members, I consider
28 them my friends and I visit them when they are sick.

29 THE CHAIRMAN: Mr. Lewis?

30 MR. LEWIS: Just two or three small matters,
Mr. MacDonald.

1 I am curious, sir, about the way in which
2 you reconcile clear implications in some of the things you
3 say and clear implications of other things you say. Last
4 night you said on three separate occasions, and I noted
5 them down, how concerned you were about the situation at
6 the Board. Unfortunately our reproduction of transcript
7 doesn't provide your last night's testimony for us this
8 morning, but you said at one point that you were concerned
9 for many months about Mr. Cauley's attitudes at the Board;
10 you said at another point over and over again for several
11 months you had been concerned and approached him. You
12 said categorically at another point you didn't feel the
13 problem could continue this way, you didn't feel this
14 continuing problem could continue in this fashion. This
15 morning you say that you hadn't been able to resolve it
16 Mr. Cauley could have continued at the Board.

1 Explain to me ---

2 THE WITNESS: As I understood the question,
3 sir, was it impossible for it to continue, and the answer
4 not
5 had to be no, that we could/continue because all of these
6 Board members were experienced and effective adjudicators
7 and it wouldn't have been healthy to continue that way and
8 that's all I am saying.

9 MR. LEWIS: Well it wouldn't have been healthy
10 to continue that way. What does that mean, it wouldn't have
11 been healthy? What would have happened? What was happening?
12 Apart from Mr. Cauley's few criticisms and his conversations
13 with you of which I gather there were many, what was
14 happening, Mr. MacDonald?

15 THE WITNESS: The position I was in was I
16 had a new system which had been approved officially by all
17 of the Board members with their signatures on it; I had a
18 signature whereby one of the Board members had reservations
19 about it which he was making quite clear in various ways
20 but not in direct communication with the Chairman of the
21 Board and, therefore, in my position, as I said last
22 evening, as a man who has to make the system work, it
23 created inevitable problems and I wanted to find some way
24 to get a meeting of the minds.

25 MR. LEWIS: I think I understand that,
26 Mr. MacDonald, but you say he made it quite clear in various
27 ways?

28 THE WITNESS: Well he certainly made it very
29 clear to me.

30 MR. LEWIS: To you. But then the situation
at the Board could not be described as unhealthy purely

1 because Mr. Cauley conveyed to you his reservations about
2 the appeal system. If the situation at the Board was
3 unhealthy or, if I may use your word from last night, you
4 saw the unrest that existed in the Board. Now come now,
5 Mr. MacDonald, words like "unhealthy," "unrest" and "problem
6 which cannot continue" are not applied to a two speech --
7 a two conversation episode with Mr. Legge on the one hand
8 and a continual discussion with you about personal unhappiness
9 on the other. I mean that is not what you mean. When you
10 use words and phrases as you have, you are implying a
11 situation which ran much deeper in the Board. And all of
12 us know that that is what you are implying and all of us
13 know that that was the case, and what we are trying to get
14 from somebody is, what was this unrest? How did it manifest
15 itself? What is it that makes it unhealthy? Can you describe
16 it further for us?

17 THE WITNESS: Perhaps the best way to exercise,
18 sir, is to talk about the situation under the previous situation
19 and the people who would be concerned with that. Prior to
20 the introduction of the new appeal system, Mr. Cauley had
21 a group of individuals reporting to him who were called
22 assistants to the vice-chairman who in fact carried out the
23 functions presently carried out by what we now call the
24 administrative group, that is, the people who deal with
25 claims problems which come to the attention of the Board
26 members as a problem. In that situation, as I think I
27 implied last night, Mr. Cauley appeared to everyone, and I
28 think in the earlier years quite properly so, as the person
29 who could solve problems at the top as it relates to claims.
30 With the change that did do things; well, it did several

1 things but the first thing it did was remove from any Board
2 member the appearance of being someone who could particularly
3 influence a claimssituation. The more important thing it
4 did was to provide everyone -- not/those who happen to be un-
5 or
6 ionized/ to have access to this kind of information -- but
7 provided every workman, regardless of who is was, with
8 first, the notice of his right to appeal; and provided him
9 with a summary of the information on which the appeal was
10 denied and it offered him and completely instructed him of
11 his rights beyond that. The people involved in this
12 activity naturally found their situations different and
13 naturally were affected by it, and I state to you very
14 sincerely that people problems are what management is all
15 about.

16 MR. LEWIS: Clearly, to use Mr. Allan's
17 phrase of last night, when you cast yourself in the role of
18 a peacemaker, that is the role you have inherited. You are
19 very conscious of people problems. But I still don't think
20 you have conveyed to us, with respect, Mr. MacDonald, what
21 you mean by "unrest" and what you mean by an "unhealthy
22 situation" and what you mean by "the problem couldn't be
23 allowed to continue." I mean if all there is to a problem
24 is that Jack Cauley has a couple of conversations with
25 Chairman Legge and he tells you in private that he is not
26 happy, that is hardly unrest, hardly civil disobedience.
27 Are you saying, Mr. MacDonald, did they talk about it in
28 the cafeteria of the Board; did the administrative assistants
29 and the employees, as I have heard over the years, what has
30 come to me as a member, that they talked about these problems
of the Board; they didn't talk about Jack Cauley's administrative

1 reservations, they talked about the Chairman and some of the
2 more rigorous procedures; but did the Board internally
3 discuss -- was there a little buzzing in the hall, did
4 people worry about it below the level of the Chairman and
5 yourself?

6 THE WITNESS: You should hardly have to ask
7 that question. That is a normal result of any situation
8 where change is involved; everybody talks about it, certainly.

9 MR. LEWIS: Right, but you characterize that
10 process as unrest; unrest implies ---

11 THE WITNESS: Perhaps my choice of words was
12 wrong. I am simply telling you that I thought there was
13 a problem and the word "unrest" is too strong or whatever.

14 MR. LEWIS: I don't know.

15 THE WITNESS: I tell you that I was concerned
16 because I have always been concerned about anything to do
17 with the Board.

18 MR. LEWIS: I understand.

19 THE WITNESS: And therefore, I tried to do
20 the best I could to solve the problems.

21 MR. LEWIS: I feel that; I listened to you
22 last night and felt that. But you said at one point that
23 you thought it could or would impair the operations of the
24 Board, perhaps not the adjudication of claims but the
25 operations of the Board. So, clearly, you felt as General
26 Manager, that it filtered down, that the attitudes, the
27 differences were running through the Board?

28 THE WITNESS: Yes, sir.

29 MR. LEWIS: Right. Did you feel that it
30 was purely a matter of Jack Cauley's reservations about the

1 appeals system?

2 THE WITNESS: Certainly not. I think it is
3 classic that even without differences of opinion at the top,
4 if you introduce change people are uneasy and people react
5 and you have to be very careful as to how you deal with
6 those things. I think the difference of opinion complicated
7 the situation, but even without that, with changes there
8 would have been uncertainties and people who would be upset.

9 MR. LEWIS: It was a long period, wasn't it?
10 It is almost seven years now that the changes have been
11 underway or you feel that now ^{that it} is just perhaps coming into
12 effect but apparently there was a transition period of six
13 years before it did come into effect; don't you think that
14 is an unusually long period?

15 THE WITNESS: I suggest to you, sir, that
16 any organization that is moving ahead will have a certain
17 element of unrest about change. This isn't the only type
18 of change we have attempted.

19 MR. LEWIS: Did you ever hear of unrest or
20 anxiety about the -- I want to phrase it very carefully --
21 about the personnel -- sorry, about the way in which the
22 Board was administered or run by the Chairman?

23 THE WITNESS: I have been thinking about
24 this particular question because it keeps recurring. May
25 I say this, and I said it earlier: no one works harder than
26 Bruce Legge at the Board. He is a perfectionist and because
27 of that certain people find it difficult to meet his
28 standards, and because of that, certain people are more
29 upset than others. But I don't think that is unhealthy; I
30 would much rather have that kind of chairman than one who

1 left me to do everything by myself.

2 MR. LEWIS: I think this bears on it,
3 Mr. MacDonald. You said, sir, yesterday, that you had had
4 to intervene in the role of an arbitrator, peacemaker,
5 confessor, whatever one does both through the Cauley incident
6 and after the Cauley incident and that you had done so at
7 the highest levels which implies that the anxiety that was
8 felt, the personality factors that were apparent, existed
9 amongst others both before and after, before too.

10 THE WITNESS: Yes, sir.

11 MR. LEWIS: Back to Mr. Allan's point, it's
12 in order for you to have to assume that, do I understand
13 your commitment to the Board would want you to assume it
14 but, more important, it is a little odd at the Board, isn't
15 it? I mean, I am not a believer in euphoria but I would have
16 thought that it would be possible to have harmonious working
17 relationships at the top of the Board without the chairman
18 performing the role as the intermittent mediator both at
19 work and at home and you even visited them in their domestic
20 environments to urge them to come to terms. Can you tell
21 us who was involved -- where the other differences of opinion
22 lay?

23 THE WITNESS: Well, Mr. Chairman, I don't
24 see where this is pertinent to this particular Inquiry.

25 MR. LEWIS: Well, I'll tell you, Mr. Chairman,
26 we have had a newspaper story about Mr. Decker, giving a
27 story about his dissatisfaction, we have affidavits about
28 this dissatisfaction of the Board, we have Mr. Cauley saying
29 there is dissatisfaction. I am not even asking you for the
30 precise incidents, I am just saying, where else did you feel

1 | it necessary to arbitrate, to act as an arbitrator?

2 | THE WITNESS: May I ask a question?

3 | THE CHAIRMAN: I do have to agree with it.

4 | I do feel that this falls within the sphere of the Cauley
5 | charges.

6 | MR. LAWLOR: Speak up please, Mr. Chairman.

7 | THE CHAIRMAN: I do feel that Mr. Lewis'
8 | question does fall within the sphere of Mr. Cauley's charges.

9 | MR. LAWLOR: So do I.

10 | THE WITNESS: Reference has been made to a
11 | newspaper statement that Mr. Decker is purported to have
12 | given. I don't have any direct knowledge of that but it is
13 | a fact and I have discussed with Mr. Decker certain differences
14 | of opinion he has had with the other Board members -- not
15 | just with the Chairman, and I have tried to resolve them.
16 | I think I said last evening that my first inclination, as
17 | I say, "Don't use me as a mediator, deal directly with each
18 | other." But if, in fact, they can't or won't, then I feel
19 | I have to do something about it.

20 | MR. LEWIS: Doesn't it strike you as odd
21 | that three men pulling together in a system of this importance
22 | have to use an intermediary in order to resolve their
23 | differences? Doesn't it tell you something about some of
24 | personality problems at the Board? Doesn't it hint to you
25 | or imply to you one of the most difficult problems of all?

26 | THE WITNESS: I am perfectly aware of what
27 | you are referring, sir, but I have had to fulfil that role
28 | for a number of years and I haven't enjoyed it on many
29 | occasions.

30 | MR. LEWIS: Well that comes clear. I presume

1 we can ask Mr. Decker the nature of his differences of opinion
2 rather than asking you what Mr. Decker confided. That is
3 clearly the case.

4 Have you ever had chats with Mr. Hamilton?

5 THE WITNESS: Yes.

6 MR. LEWIS: He seems a pretty independent
7 fellow. I wouldn't have thought he needed a mediator.

8 THE WITNESS: Mr. Hamilton and I understand
9 each other perfectly, sir.

10 MR. LEWIS: I have that sense. I have just
11 one last point that I wanted to raise with you: when you
12 referred to the tape recording last night, Mr. MacDonald,
13 you said that it had involved a journalist -- in fact, I
14 think you made a crack that for all you knew, the newspapers
15 did it to you and why shouldn't you do it to them. In fact,
16 when the tape recorded conversation took place, the man in
17 question was not a journalist?

18 THE WITNESS: It had nothing to do with him
19 being a journalist, sir. It was a personal involvement --
20 I am not inferring that he was involved except that he had
21 a knowledge of it which caused him to call me -- I didn't
22 call him.

23 MR. LEWIS: Right, I understand that, but
24 you put it in the context of having recorded a journalist's
25 conversation although he was not at that time an acting
26 journalist.

27 THE WITNESS: No, sir.

28 MR. LEWIS: Well that is, I think, important,
29 in view of what you subsequently said.

30 All right, Mr. Chairman.

1 THE CHAIRMAN: Mr. Lawlor?

2 MR. LAWLOR: Let me refer to another conver-

3 sation with Mr. Cauley, arising out of the 1968 amendments

4 to the Workmen's Compensation Act. As in the transcript at

5 page 18, again I think it is the April 5th transcript, he

6 says: "I was told the following day, and I am

7 sure Mr. Bales will remember this and will

8 agree with it, the following day I got the

9 message from Mr. MacDonald, not from Mr. Bales

10 or the secretary of the Board, that the Board

11 was to be before the Cabinet to discuss these

12 amendments. But I, the Vice-Chairman, was

13 not to open my mouth because it would be too

14 obvious that I am fighting with the Chairman."

15 Would you comment on that, sir?

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1 Did it take place first of all?

2 THE WITNESS: My recollection of my
3 discussion with Mr. Cauley on that occasion is that I
4 pointed out to him that the Cabinet would not be an
5 appropriate occasion for him to reveal his differences
6 with the other Board members. He was not in any way
7 inhibited. Anybody could have asked him a question. I
8 simply as my best advice to him said that on that
9 occasion that was in my opinion an inappropriate location.
10 What I was really saying to him is, you know, if you are
11 not going to deal with it directly don't do it there.

12 MR. LAWLOR: Would he have replied to as
13 has been indicated on the record on this Hearing that
14 there wasn't any such thing as an appropriate occasion?

15 THE WITNESS: I would say that any occasion
16 that he wished to do it publicly and directly was an
17 appropriate occasion.

18 MR. LAWLOR: But not so far as the Cabinet
19 was concerned? That was too late in the day?

20 THE WITNESS: Well again I am in the
21 difficult position of giving the best advice I can.

22 MR. LAWLOR: Well, again to go back on it,
23 I mean Cauley has told us that there was no occasion
24 appropriate or inappropriate that he could make these
25 things felt to the Chairman of the Board and therefore
26 he felt that he would have to use whatever instrument
27 or whatever time happened to fall to his scope and
28 including the Cabinet meeting.

29 THE WITNESS: Mr. Cauley at any time could
30 have raised these questions at a Board meeting. Nobody

MacDonald,

denied him that privilege.

MR. LAWLOR: Nobody denied him. Did he attempt to raise them at the Board meeting in your presence at any time?

THE WITNESS: Not in my presence, sir.

MR. LAWLOR: What is the difference about raising the matter in the Cabinet?

THE WITNESS: I don't understand why he did not do it by that particular means, sir.

MR. LAWLOR: But two seconds ago you said you thought it was inappropriate to do it at that time.

THE WITNESS: I thought it would be rather embarrassing if what he hadn't made public in a Board meeting were to be raised in a Cabinet meeting subsequently.

MR. LAWLOR: You did? You are a peace-maker.

They said it is not just the complaints down through the years, particularly in the years from 1966 on, have not -- your evidence has been largely concentrated upon the appeal procedure and the reservations to say the least Mr. Cauley had about that procedure, but they affected other matters, didn't they? He complained bitterly and he complained to us on at least two occasions which I have documented here about meetings of the full Board. Well, let's refer to what he says in this particular context. In the conversation purportedly that he had with you to state, he said to you, "Where would he ever get the idea he hasn't had a meeting with us in this connection, where would he

1 ever get that idea? He hasn't had a meeting with us in
2 connection with any administrative problems for almost
3 two years, maybe a little longer." Then you are supposed
4 to have said, "Jack, if you will just tell the top
5 officials in the Province that you will give your un-
6 qualified support to this new system the unions would buy
7 it." And then secondly, from the evidence of April the
8 18th in the afternoon section, page 91, again, "Well, the
9 reason I went to Mr. Eberlee's home,
10 sir, on the Sunday, was that I had
11 been trying for almost two years to
12 get the Minister to have a meeting of
13 the full Board as such."

14 That was the second major thing. The third thing, he
15 was constantly complaining about the failure of the
16 Chairman of the Board to appear at the adjudicative
17 hearings. Now is this not true? Aren't these three
18 areas of, let's call it grouching if you will or beefs,
19 that Cauley no doubt would have brought to your attention?

20 THE WITNESS: This is not new to me, sir.

21 What is your question?

22 MR. LAWLOR: Well my question is it is not
23 just the one area, it is three areas and they are all
24 interlocked and they are all ongoing; is that not
25 correct?

26 THE WITNESS: I have already indicated, sir,
27 t hat Mr. Cauley was unhappy and he told me so for various
28 reasons.

29 have
30 say so/been most vague with respect to pinpointing areas

1 of unhappiness. You only concentrated, I say, on a single
2 one. I am suggesting to you that there was a diversity
3 of reasons among which these other two I brought to your
4 attention are very prominent and I am trying to get you
5 to concentrate on them, take the administrative -- what
6 validity is there in the statement there / any meeting
7 where administrative matters could be discussed at the
8 Board for over two years?

9 THE WITNESS: That is just ridiculous.

10 MR. LAWLOR: Just ridiculous?

11 THE WITNESS: It is ridiculous.

12 MR. LAWLOR: So Cauley on that particular
13 point is completely off his keel?

14 THE WITNESS: There were regular meetings
15 on administrative matters and there always have been.

16 MR. LAWLOR: He felt at that point he was
17 unable to convey his feelings?

18 THE WITNESS: He didn't at that time, sir.

19 MR. LAWLOR: He nevertheless conveyed them
20 to you?

21 THE WITNESS: Privately -- I indicated to
22 him, that was my problem, "If you feel so strongly about
23 these things do it officially, don't do it through me,"
24 sir.

25 MR. LAWLOR: Let me have this very clear;
26 Did he complain to you that the administrative Board
27 meetings that he attended were unsatisfactory to him
28 because he was unable to really get the stuff off his
29 chest?

30 THE WITNESS: No.

1 MR. LAWLOR: Never said anything to you of
2 that outside those meetings or inside them for that
3 matter?

4 THE WITNESS: Any Board member at any
5 administrative Board meeting can bring up any subject
6 he cares to and that's always been the case.

7 MR. LAWLOR: All right. Did Cauley com-
8 plain to you extracurricularly outside the Board meetings,
9 if you will, that the Chairman wasn't pulling his weight
10 so far as the administrative -- so far as the adjudicative
11 matters were concerned?

12 THE WITNESS: No, that was not his concern
13 at that time. He was concerned about the change in the
14 appeal procedure basically.

15 MR. LAWLOR: That only?

16 THE WITNESS: That was my impression, sir.

17 MR. LAWLOR: And you are saying in that
18 meeting when you went to his home that the matter of
19 Board meetings and the general comportment of the Board
20 apart from appeal procedures wasn't touched upon?

21 THE WITNESS: I don't recall Mr. Cauley
22 being concerned about the Chairman's lack of attendance
23 at meetings.

24 MR. LAWLOR: Do you recall the day when
25 Mr. Price stormed into the office of the Chairman of
26 the Board saying that he was not going to be in effect
27 a mere envoy or hearings officer?

28 THE WITNESS: I heard about it subsequently,
29 sir. I didn't know about it at that time.

30 MR. LAWLOR: You did hear about it?

1 THE WITNESS: Yes.

2 MR. LAWLOR: You didn't hear him complain
3 about this?

4 THE WITNESS: Not in advance, sir.

5 MR. LAWLOR: Did you discuss it with him
6 subsequently?

7 THE WITNESS: I remember hearing about it,
8 but it was never discussed.

9 MR. LAWLOR: Never discussed with him.
10 What can you tell the Committee about the affidavits
11 arising out of the photographs, the Miss Bancroft
12 incident? Did you hear about that or did you know about
13 it at the time?

14 THE WITNESS: I testified last evening,
15 sir, when you weren't present that I was not in my
16 current position at that time. I first knew details
17 about it when this Inquiry started. I was never involved
18 at any point at the time.

19 MR. LAWLOR: Well finally then, was there
20 -- when Cauley would complain would you normally in the
21 course of casual or other conversations that you spoke
22 to Mr. Legge each day, would you convey to him Cauley's
23 sentiments?

24 THE WITNESS: Naturally, sir.

25 MR. LAWLOR: Was this on more than one
26 occasion?

27 THE WITNESS: Yes, I would think so.

28 MR. LAWLOR: It was constant?

29 THE WITNESS: Not constant, but it was
30 certainly -- I considered it my role -- as ad nauseum

1 said during this Hearing I considered that my role.

2 MR. LAWLOR: Did you convey those same
3 sentiments to the Minister at one time or another?

4 THE WITNESS: Yes, I did.

5 MR. LAWLOR: Thank you.

6 THE CHAIRMAN: Mr. Lewis?

7 MR. LEWIS: Just one question: Why didn't
8 Mr. Legge call Jack Cauley into his office and say,
9 "For God's sake, Jack, shape up and let's sit down and
10 sort it out or let's sort the business through." I mean
11 what kind of way is this -- did you never ask Mr. Legge
12 to have a showdown with Jack Cauley?

13 THE WITNESS: Yes, I asked both Mr. Legge
14 and Mr. Cauley to talk to each other rather than to talk
15 to me.

16 MR. LEWIS: But they never did in fact
17 clearly?

18 THE WITNESS: Yes, I think they made a
19 couple of attempts, but it wasn't resolved obviously.

20 MR. LEWIS: They talked to each other,
21 they clearly didn't communicate with each other?

22 THE WITNESS: I think the evidence is
23 clearly that way.

24 THE CHAIRMAN: Any other members have any
25 questions or members of the Committee?

26 MR. DEANS: Mr. MacDonald, I just want to
27 go back to the telephone taping incident. I certainly
28 was left with the impression last night that the person
29 who called you was a journalist and I now wonder --
30 since he was not a journalist ---

1 THE WITNESS: His occupation was journalist,
2 but he was not calling me as a journalist.

3 MR. DEANS: He wasn't. Was he calling to
4 give you information?

5 THE WITNESS: Yes, he was.

6 MR. DEANS: Why would you find it necessary
7 to tape record the information? Why if a person --
8 obviously you couldn't have used it?

9 THE WITNESS: I did not use it.

10 MR. DEANS: I'm saying though -- I don't
11 mean to allude to the matter whether you did or didn't,
12 you couldn't have. Was he aware that you were going to
13 take it?

14 THE WITNESS: I don't think he necessarily
15 was, sir.

16 MR. DEANS: Since the information that you
17 were getting from him could -- I don't believe if I
18 am correct -- I may be wrong, but I don't believe you
19 could have used it in any action since you received --
20 you got the taped conversation without his knowledge --
21 what purpose would there be to tape recording a conver-
22 sation with an individual colleague and about a matter
23 of concern to the Board?

24 THE WITNESS: I think, Mr. Deans, I
25 testified last night that the problem we were dealing
26 with was a criminal matter which I had dealt with. This
27 gentleman felt that he had something of importance to
28 tell me about it. I thought it was of sufficient
29 importance to take a record of it.

30 MR. DEANS: But why would you not have had

1 him meet with him and have what he had to say taken down
2 by way of a statement since he was prepared -- did the
3 statement itself, the tape recorded message I don't
4 believe could have been used in a court of law.

5 THE WITNESS: There was never any intent
6 that it should, sir. I have already said in retrospect,
7 and may I say this ---

8 MR. DEANS: Yes, I'm sorry, go ahead.

9 THE WITNESS: I understand that it is the
10 regular procedure in this kind of situation to have
11 perhaps a secretary taking it down in shorthand and the
12 difference between that and taking it down more accurately
13 on a recorder is something that as a layman I don't quite
14 understand the difference about it.

15 MR. DEANS: There is a difference. The
16 difference is if the secretary takes it down in shorthand
17 he is aware the secretary is there taking it down in
18 shorthand.

19 THE WITNESS: I don't know if the person
20 on the other end of the phone can see the secretary, sir.

21 MR. DEANS: Well, this may be so. What I
22 am saying to you is I think if you are going to take
23 a person's statement down that you have got to tell them
24 that this is how it is being done. But, nevertheless,
25 what bothers me about it is that you obviously felt at
26 that time that it was proper to do that. How then --
27 have you ever given -- who installed the bug?

28 THE WITNESS: Who installed the bug? It
29 wasn't a bug.

30 MR. DEANS: All right, who installed the

1 device?

2 THE WITNESS: I did.

3 MR. DEANS: You did? Where did you get it?

4 THE WITNESS: I would think any tape
5 recording device that anybody has anywhere has one of
6 these things attached to it.

7 MR. DEANS: It is something -- I would guess
8 something you wanted that you decided to stick on the
9 edge of the phone?

10 THE WITNESS: I think each one of you if
11 you will take a look at whatever tape recording device
12 you have that you will find this a part of the equipment.

13 MR. DEANS: My understanding is that these
14 were illegal, that those particular devices for attach-
15 ing to telephones were illegal for sale in Canada in
16 my understanding. The reason I ask is -- what I am
17 asking you is that you owned one of these prior to the
18 time and you simply decided to use it and you didn't
19 buy one for the purpose?

20 THE WITNESS: Definitely not, sir.

21 MR. DEANS: All right.

22 MR. LEWIS: I am really concerned about
23 this point of accuracy, Mr. MacDonald. Mr. Hicks was
24 in public relations at the time, was he not, and he had
25 nothing to do as a reporter on a newspaper at the time?

26 THE WITNESS: I have made it clear, sir,
27 that it was a call to me and if this Committee wishes
28 I will be happy to make ---

29 MR. DEANS: You would have been happy?

30 THE WITNESS: A call to me concerning the

1 internal operations of the Board which was to me very
2 significant, very important, and I simply used it and
3 perhaps in retrospect it was an error the message to
4 make sure I knew exactly what the story was.

5 MR. LEWIS: I appreciate that and I said
6 last night I'm not interested in the content of the call
7 or I'm not interested in those things, it's just that
8 you said quite categorically that it was a journalist,
9 but it is ---

10 THE WITNESS: His relationship in this part-
11 icular situation has nothing to do with him being a
12 journalist.

13 MR. LEWIS: Well, I think that, you know,
14 you felt strongly about it last night to have gone as
15 far as to say the newspapers may do the same thing to
16 you. This morning it has nothing to do with his -- and
17 I don't even think that was his occupation, that's the
18 point I'm making, I think he was in another field
19 entirely.

20 THE WITNESS: I think he was still a free-
21 lance journalist at the time, but I don't know that that
22 is important.

23 THE CHAIRMAN: Counsel for Mr. Cauley, do
24 you have questions to put to the witness?

25 MR. LAPKIN: Yes.

26 MR. DONNELLY: May I ask, Mr. Chairman,
27 just before that, can you help us as to the date of the
28 tape recording of this call, sir, in approximate terms?

29 THE WITNESS: I have a file. It is three
30 or more years ago, sir, and I will get the date.

1 MR. DONNELLY: There are a couple of other
2 matters I would like to ask and it may be so elemental
3 that Committee members may know them already.

4 But just touching, sir, you spoke about
5 people's reaction to change. Was Mr. Sparrow the
6 Chairman immediately prior to Mr. Legge?

7 THE WITNESS: Yes, he was, sir.

8 MR. DONNELLY: What was the term of his
9 office in length of time, sir?

10 THE WITNESS: I think he was appointed in
11 1948 and he remained until 1965.

12 MR. DONNELLY: And during his term had
13 there been any radical procedure or administrative or
14 adjudicative changes such as we have heard so much about
15 here?

16 THE WITNESS: Nothing radical, sir.

17 MR. DONNELLY: Tell me, sir, what was the
18 policy of the Board itself up until the change in the
19 chairmanship of about 1965 as far as advancement from
20 within the ranks or as opposed to persons being brought
21 in from outside, or was there a policy that you recall?

22 THE WITNESS: I don't think we have ever
23 had a policy of excluding either category of employment.
24 I would think the changes that were made was in the
25 organization itself. In other words, there weren't many
26 people brought in from outside.

27 MR. DONNELLY: Is that before or after
28 1965?

29 THE WITNESS: That is in the period I've
30 described from '48 to 1965, but there were some appoint-

1 ments from outside. It was an unusual ---

2 MR. DONNELLY: How did that compare, sir,
3 with the practice subsequent to 1965?

4 THE WITNESS: In getting people for the
5 job there were many appointments made ---

6 MR. DONNELLY: Did that have any effect
7 on morale or the reaction, this human people reaction
8 that you speak of, sir?

9 THE WITNESS: I would think it did, sir,
10 yes.

11 MR. DONNELLY: In what respect?

12 THE WITNESS: Well people I think naturally
13 resent what is ultimately called an outsider coming into
14 a senior position.

15 MR. DONNELLY: Now, sir, I have been asked
16 by Mr. Cauley's counsel to put certain questions to you.
17 I have been asked to inquire, sir, do you assume that
18 Cauley knew the terms of his resignation when it was
19 encompassed in a Board order to which he had no access?

20 THE WITNESS: I have assumed from day one,
21 sir, that he was in possession of that particular
22 document because of his direct relationship with the
23 Minister.

24 MR. DONNELLY: My friend points out as we
25 have dealt in evidence before that it seems that the
26 Minister didn't have the document when he wrote the
27 letter of September 9th.

28 THE WITNESS: I think you would have to
29 ask the Minister. I don't want to embarrass him in
30 any way because I know he is reacting to the best of

1 his recollection.

2 MR. DONNELLY: Your reaction is you assume
3 he had done it?

4 THE WITNESS: I feel that he had a document.
5 Perhaps it just didn't come to his attention in his file.

6 MR. DONNELLY: The document file rather
7 indicates that two copies went to a Mr. MacDonald. That
8 would be you, sir?

9 THE WITNESS: That would be me.

10 MR. DONNELLY: Would it then be your
11 responsibility to further the document to wherever it
12 should go?

13 THE WITNESS: My recollection, sir, is
14 the Chairman and I met with the Minister and turned the
15 document over to him.

16 MR. DONNELLY: Well do you have the re-
17 collection or is that an assumption that you now make
18 as to what you probably would have done?

19 THE WITNESS: To swear that it happened
20 is difficult, sir. It is a very conscious recollection
21 of what in fact did happen.

22 MR. DONNELLY: Well I am asking you, do
23 you have a recollection or is it simply that is probably
24 the procedure that he would follow?

25 THE WITNESS: That would be the procedure
26 I would normally follow and that is what I feel did
27 happen.

28 MR. DONNELLY: But the question that I
29 put to you is this: The memo being two things, (A)
30 marked confidential and (B) going to you in duplicate,

1 would it then be your immediate responsibility to see
2 that it was furthered or went where it should?

3 THE WITNESS: That would be my responsibility,
4 yes.

5 MR. DONNELLY: I am instructed to inquire
6 if you have any record of the meeting with the Minister
7 you think did occur when the Board order was transferred
8 to him or brought to his attention?

9 THE WITNESS: It's not our normal practice
10 to have a minute of it, no, sir.

11 MR. DONNELLY: And there's no record
12 available about that?

13 THE WITNESS: No, we would not have a minute
14 of that kind of meeting.

15 MR. DONNELLY: Do you have any record of
16 the date, sir, if such a meeting did occur?

17 THE WITNESS: No, sir.

18 MR. DONNELLY: I am instructed to put this
19 question, sir: Are you aware that you are identified by
20 Mr. Cauley in June of 1969 to Mr. Ragonetti as one of the
21 speakers on the table soon after Mr. Cauley's resignation
22 and before the present issues as to the resignation arose?

23 THE WITNESS: I am not aware of that.

24 MR. DONNELLY: I am instructed to draw to
25 your attention paragraph number 3 of the affidavit,
26 Exhibit No. 1 of last week, as follows: "That I was in-

27 formed by John F. Cauley in June of
28 1969 that the aforementioned quotation
29 was a conversation between John F.
30 Cauley and a Mr. A.G. MacDonald at

- 1021 -

MacDonald,

Mr. Cauley's Ancaster residence

during the last week of April, 1969."

You had no knowledge of that, sir, I take it?

THE WITNESS: I had no knowledge.

MR. DONNELLY: I'm instructed to inquire if that affidavit is questioned by you as not being a verbatim account of the conversation? Can you give us a verbatim account?

THE WITNESS: No, I cannot and I doubt if anyone could at this late date.

MR. DONNELLY: I'm also instructed to inquire, are you able to provide us with a list of the consultancies appointed in 1971 and 1972 at the areas of reference of each consultancy?

Is that available?

THE WITNESS: I will be pleased to file one, sir.

MR. DONNELLY: Thank you very much.

MR. LAPKIN: Thank you, Mr. Chairman.

MR. ALLAN: Mr. Chairman, just before Mr. MacDonald steps down, am I to understand that the document referred to by the counsel of the Committee as a resignation is that the confidential -- is that the Board order?

I am not clear when you say the document that was given to you.

THE WITNESS: The document referred to as I understood it was a Board order.

MR. ALLAN: Is the Board order the one in which the existing benefits are outlined?

1 THE WITNESS: I don't know what you have
2 in your hand, sir. May I see it?

3 Is that the order of May 8th?

4 Yes, that is the document.

5 MR. ALLAN: That really wasn't a resignation,
6 was it?

7 THE WITNESS: No.

8 MR. ALLAN: I think it was referred to as
9 a resignation. It is not a resignation.

10 THE WITNESS: That was a statement of
11 his existing benefits should he resign, sir.

12 MR. ALLAN: That was my understanding, but
13 I wondered if I was confused.

14 THE WITNESS: You are correct, sir.

15 THE CHAIRMAN: If there is no further
16 questioning of this witness you may be excused.

17 Thank you, Mr. MacDonald, for assisting
18 the Committee.

19 MR. DONNELLY: Mr. Decker?

20 DAVID G. DECKER, Sworn:

21 EXAMINATION BY MR. DONNELLY:

22 Q. Mr. Decker, your full name, sir?

23 A. David Gordon.

24 Q. And you are presently Vice-Chairman
25 of the Workmen's Compensation Board?

26 A. That's right.

27 Q. And you were appointed when, sir?

28 A. March 1st, 1970.

29 Q. And prior to that I think you had
30 been with the Canada Pension Board or some such Board,

1 have you?

2 A. Canadian Pension Commission.

3 Q. And have you been continuously with
4 the Compensation Board since your appointment there?

5 A. Yes, sir.

6 Q. And I introduced my remarks to Mr.
7 Hamilton by saying that I don't seek to burden you
8 particularly with prior matters you may have heard of,
9 but I would like to deal with your own knowledge, sir,
10 of the conditions that existed when you came, the
11 possibility of changes in those conditions, the present
12 conditions and perhaps any recommendations that you may
13 have for this Committee in reviewing the workings of the
14 Board.

15 Now the matter of immediate concern I think
16 regardless of dealing with past histories and so on,
17 but the matter of immediate concern is I think the
18 situation that exists now and Mr. Hamilton spoke of it
19 as being the working relationship not all together
20 satisfactory but he said it was improving in certain
21 administrative areas. Do you have any comment to make
22 on that position if it was in fact taken by Mr. Hamilton?

23 A. I agree with Mr. Hamilton. There are
24 improvements and I think they are increasing in momentum.

25 Q. And what do you say about the working
26 relationship presently as applies to the senior men,
27 the Board members themselves?

28 A. I would like to correct, Mr.
29 Chairman, an impression which has been created by many
30 references to disagreements and hostility and so on that

1 I have had with the Chairman of the Board. This is not
2 true. I emphatically state that. I wasn't here when
3 Mr. Hamilton gave his evidence, I only saw what was in
4 the press, but I do agree with him that as per my under-
5 standing of the Act that the Board is a corporative
6 administrative body and there was an area of dis-
7 satisfaction that I was not filling my role as I under-
8 stood it as Vice-Chairman. Now later I hope through
9 questioning that I can clarify this because having made
10 that statement I am not putting any blame and I want to
11 make that clear.

12 Is that what you were asking for?

13 Q. And is that the situation that
14 existed shortly after your arrival, sir, that you felt
15 you were not adequately fulfilling your role there as
16 Vice-Chairman?

17 A. Yes. I have been in sufficient
18 positions of this nature as a member of the Pension
19 Commission, Pension Appeal Corp that I appreciate that
20 for two, three, four, five months as a newcomer to a new
21 organization, even though the appeal structure was
22 something I had grown up with practically, I spent 14
23 years in, that there were many things about the Board
24 that I didn't understand it would have been presumptuous
25 of me to assume that I could take my full position as
26 Vice-Chairman. And I think I understood that and ex-
27 pressed that. But despite the passing of time, six
28 months, and now two and a half years, I have to say that
29 I still feel that some changes are necessary, minimal
30 changes if I am to fill that role. But I know the

1 progress is being made and in the foreseeable future I
2 can say that as a Board member we can fulfill the
3 functions as stated in the Act, corporate administrators.

4 Q. You leave me with the impression,
5 sir, that presently you don't feel you are fully part-
6 icipating as you should; was that your intention, sir?

7 A. I feel in a difficult position here,
8 sir. I think Mr. MacDonald has answered the question for
9 me -- perhaps not intentionally -- better than I can
10 answer it. May I be permitted to give a subjective
11 answer, sir, because I think it's necessary?

12 Q. Please proceed, sir.
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1 A. I came into a Board with a reputation
2 second to none, Workmen's Compensation Board, an organization,
3 I may say, second to none that I have ever worked in. There
4 were established practices and procedures which had worked
5 and I accepted that. Mr. MacDonald has emphasized his
6 position in this whole organization and he has used the
7 words "mediator," "conciliator, and so on and you asked me
8 what I considered the problem to be from my own point of
9 view. It is that it takes a long time and has taken a long
10 time to change that organizational structure that was there.
11 Now personally I feel that the change is necessary and I
12 believe it is coming. It wasn't fast enough for me; perhaps
13 I am impatient. But there is a paternal administrative
14 structure and I think most people understand what I am
15 saying; most private businesses in the last few years have
16 seen this changing where there has been almost a protective
17 type of administration and I say that this is inevitable at
18 a commission like the Workmen's Compensation Board. I just
19 came from the Pension Commission and it was applicable there
20 and it takes a deal of agreement, of discussion and, oh,
21 involvement by everybody, to make the changes, and I think
22 that this is my main area of failing to fit in as I would
23 like to have the program of administration of the Board.
24 But I may say that I have great faith in the Board and in
25 the program that is there and I believe that I will fit into
26 that structure.

27 Q. You spoke of a paternal structure and,
28 so that we might understand what you were attempting to
29 express -- I'm not sure that I do, sir, understand. A
30 paternal structure normally indicates the father or head of

1 the family, was that the ---

2 A. This is why I referred to Mr. MacDonald.
3 Several questions were asked by the members, "Did you feel
4 that you did so and so," "visit Mr. Cauley," "Did you make
5 suggestions to Board members?" and so on. This is the type
6 of paternal organization that I am talking about and it is
7 inevitable within that type of organization of a person like
8 me coming into it would have perhaps real difficulty in
9 fitting into the picture. I am not leading the organization.
10 Part of it is my own background and lack of patience,
11 possibly, to fit into the picture within a certain period of
12 time.

13 Q. Do you intend to indicate that it took
14 you awhile to find your place, to find your way along with
15 these systems and persons, sir, is that what you are
16 indicating?

17 A. The appeals structure? No, it was part
18 of my background. I think I understand the appeals structure.
19 In fact, it is a structure of the Canadian Pension Commission,
20 a great part of it that is in the Workmen's Compensation
21 Board. I can't challenge too strongly the fact that I have
22 not fitted in as well as I should have fitted in. But by
23 the way, sir, this is something within the Board itself and
24 to me it is a pretty minimal thing which can be resolved
25 within the Board and this is where I feel an embarrassment
26 here to have to explain it.

27 Q. Sir, I don't wish to pursue you to the
28 extent of embarrassing you any more than is absolutely
29 necessary, please understand me, but I am not really sure
30 that I understand your use of the word "paternal" or

1 "paternalistic." Was that in reference to a single person
2 or in reference to a general system?

3 A. I say that it is in reference to the
4 top structure. I think Mr. MacDonald again described
5 Mr. Legge very properly. Bruce Legge is one of the most
6 able men I have ever met and ever worked with. He is an
7 impatient man when it comes to inability to do a job,
8 what could be called laxity and so on, and it's much easier
9 for him to do the job himself than to delegate it for someone
10 else. Now I think this perhaps best describes what I am
11 calling paternalism. Then through Mr. MacDonald who has had
12 to carry the load for, as I understand it, for many years,
13 but definitely since I have been there; he has had respon-
14 sibility which I personally feel, and this is the source of
15 my discussion now -- that no man should have to carry. But
16 because he has this heavy load, he has at times, and I think
17 it is absolutely necessary for him within this framework, to
18 be a paternal figure and his decision making can't be
19 disputed as far as I am concerned, but I think it is because
20 of this responsibility placed on an individual like
21 Mr. MacDonald that it has not been necessary to have the
22 Board function as I feel it should function. I think that
23 is what the discussion is about.

24 Q. There is one thing that you said, sir,
25 and you referred to the fact that Mr. Legge was demanding
26 of a high standard and delivered that himself, but as a
27 result of that attitude, he found it easier to do things
28 himself rather than to delegate it to other persons.

29 Is that so?

30 A. I think perhaps the word is perhaps

1 sure. I think Mr. MacDonald described this, that he said
2 he described the main body of the business with Mr. Legge
3 which is proper, he is the captain of the organization.

4 Q. What I am getting to you, sir, is this,
5 to get back on the track: I wonder if it touches on the
6 absences of the chief officer for many of the adjudicative
7 hearings and I am wondering also if that tendency to draw
8 things to himself is maybe one of your areas of discontent,
9 that you think you should more fully share in those areas
10 that may be personally dealt with by the vice or the chair-
11 man. Do you have any comments about those matters?

12 A. I dislike the word "discontent". It
13 is, yes, I have felt that the process has been slow fitting
14 into a full administrative program of the Board as an
15 individual. If that is discontent, yes, I have been discontent
16 on that score. But I would like to emphasize, I am not
17 blaming anybody for this.

18 Q. Well you indicate that these are
19 matters that can improve and they will improve within the
20 structure of the Board you are saying?

21 A. That's right.

22 Q. Mr. Hamilton explained to us and I think
23 we may have known that it is within the competence of any
24 two of the three commissioners to pass a motion and thereby
25 alter procedures of the administrative routine; is that your
26 understanding, sir?

27 A. That's right, and many procedures have
28 been altered since I have been on the Board.

29 Q. So that acting in concert with one or
30 the other of the other commissioners you may accomplish

1 these changes?

2 A. And I would like to make clear, sir,
3 I am not complaining about the structure of the Board. My
4 whole area that has been attributed to me, and I have not
5 been responsible for any of these releases -- I have not
6 made a comment to anyone -- that attributed to me this area
7 of dissatisfaction, it's in an area of philosophy only in
8 principal, i.e. as I see it where this is pretty nebulous
9 but when it is talked about in the press it becomes very
10 important, I suppose.

11 Q. In these nebulous areas, are you able
12 to be more specific about what changes in order that you
13 could alleviate this feeling of not being able to participate
14 fully?

15 A. I would like the Board to -- and as I
16 said, I think this is coming about -- to be a part of every
17 part of the decision making process. This is just about
18 the only answer I could give.

19 Q. Is that the decision making in the
20 administrative sense or the ---

21 A. In the policy and changes in policy and
22 so on.

23 Q. Not in the judicial sense?

24 A. That's right. You have principal officers
25 who are doing their job. They are doing an excellent job
26 and in the adjudication, in all areas, there is no dis-
27 satisfaction. As far as I am concerned, there isn't. It
28 is a terrifically well run organization.

29 Q. I want to be careful how I can quote
30 Mr. Hamilton and I think he said something to this effect,

1 that there may have been a one-man board after or before
2 he arrived but now that there is a firm exchange between
3 the parties -- do you have any comment now as to whether
4 or not it could be described as a one-man board?

5 A. I don't think it is a one-man board
6 now. I would agree with Mr. Hamilton that it was my
7 impression too that it was a one-man board. I think we have
8 to remember that there was a lot of instability in that
9 board. Mr. Hamilton and I would have two members appointed
10 in 1970 which gave the first permanently established board,
11 I understand, for some time. So I accepted this and Mr. Legge
12 had developed a pattern and this is what I am trying to
13 say, that that pattern has been established and it takes
14 time to change the pattern. And the pattern has been changing
15 quite rapidly now.

16 Q. So far you have indicated that these
17 areas that concern you would be in the administrative field.
18 Do you have any comment to make about the adjudicative field,
19 sir?

20 A. I think the adjudicative program of
21 the Board is second to none, personally. I am a little
22 biased here because it is what I have been associated with
23 for 15 years. The decision making at all levels, and it
24 amazed me coming from the Pension Commission where we had
25 great pride in what we had, the type of decision that is
26 made at the claims level where there are three or four
27 thousand cases a year coming in and then the review level,
28 the calibre of people is very, very high and the calibre
29 of their decisions, and I personally have examined the
30 decisions because this is an area I am interested in and

1 it has improved. The appeal tribunal, I have sat in on
2 the tribunal hearings and it would I think, as a vice-
3 chairman of the Board, you couldn't but be very pleased and
4 proud of the standards that they had. The Board itself
5 where the three of us sit, and I think Mr. Hamilton made
6 this point, Bruce Legge is one of the most competent
7 adjudicators that this country has and I have been all across
8 the country for 14 years and I can say this without con-
9 tradiction. He is generous to a fault with claimants and
10 when a man comes to that Board, now at least, and this is
11 all I know about, he is treated with the dignity, and this
12 is my philosophy in handling things too, that he deserves.
13 When he leaves that room and appears before the Board, he
14 leaves it, and I think expressed by one of the clients a
15 few days ago, he said, "I may have lost my case but I go
16 out of here feeling like a man." I think that is what is
17 important in adjudication and the type of adjudication at
18 the Workmen's Compensation Board and I am sure many of the
19 members have come before the Board and they can't challenge
20 that, that it is of a very high calibre. I would like to
21 suggest, sir, I have one other incident. The other day in
22 the presence of our legal counsel and I think this makes
23 the point in answer to your question, it was a representative
24 of one of Canada's national companies and he said, "Hello,"
25 and he said, "I lost my case a few days ago but I want to
26 tell you that that Board treated us with dignity, with
27 honesty, and I have to say that we have fair treatment in
28 every way. Thank you." Now, sir, that is repeated many,
29 many times over, both by management.

30 Q. Both by, let me say, labour and management.

1 A. I should say that this is a question
2 that will be best answered by labour representatives and
3 the people who are coming.

4 Q. You are telling us what management
5 had said and the feedback that came to you and, so far as
6 you are aware, do you get the same results from labour,
7 sir?

8 A. It's more so.

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1 Q. I take it you leave the Committee
2 with the impression that although there may be areas in
3 your judgment in the administrative field this has not
4 adversely affected the workings of the adjudicative system?

5 A. That's right. And I may have been
6 involved -- I know I was -- in talking about the paternalistic
7 aspects, but what I am trying to say to this Committee is
8 this: that every institution and all our Boards and
9 Commissions across Canada have had a foundation in which
10 this type of atmosphere has existed and I am trying to
11 state the difficulty of moving into the seventies -- it
12 is not done by the stroke of a pen nor a few words, this
13 is what I am trying to say and I say it in answer to the
14 Board.

15 Q. Mr. Vice-Chairman, Mr. MacDonald has
16 described Mr. Legge as hard working and both you and
17 your other Commissioner described him as an able claims
18 adjudicator. Can you give us your opinion, sir, as to
19 the necessity or advisability as to this other work that
20 he may do be it related to Board members that take him
21 away from his adjudications? I am thinking (a) of his
22 administrative work and (b) his extracurricular almost in
23 a sense public relations work.

24 A. Public relations, sir, I would say
25 is the area.

26 Q. Well that may be.

27 A. This is not a matter of concern of
28 mine personally. Mr. Legge is away quite a bit. I have
29 done a lot of research into this and the Board and I find
30 that many of the trips that Mr. Legge has made and much of

1 his absence is to meet commitments which were made long
2 before I came to the Board. Now I would like to explain
3 that. I mean commitments of an obligatory type. There
4 are not too many men who are expert in the adjudication
5 field, not an adversary adjudication field. But Bruce
6 Legge is and the world, and I say the world, from
7 Australia right around the world has been asking him to
8 give them service. Now as a Board member I would like
9 to see him away less, but I think we have to accept that
10 he has made these commitments with a sincerity that only
11 Bruce Legge could have and I do not complain about his
12 being away on these commitments. I believe that a two
13 man Board can handle the cases, and it is stated that
14 they can, not quite as well as a three man Board, but
15 it can be handled.

16 Q. Mr. Hamilton rather indicated it has
17 been a policy of the Board in past times that it is better
18 to have a three man Board were it possible.

19 A. Mr. Hamilton and I agree on that and
20 Mr. Legge too. But if there is a two man Board and there
21 is a disagreement -- and I would like to indicate Mr.
22 Hamilton and I have not had a disagreement -- we have
23 differed in opinions as to what should be done about an
24 individual case -- this comes back to your question --
25 with three men two can be for, one can be against or
26 vice versa, this is the value of a three man Board.

27 Q. Now you have mentioned, sir, I think
28 of some attitude of the workman that although he loses
29 his appeal he leaves with dignity. Is that some change
30 in your time? Was that not the situation before?

1 A. It would be presumptuous on my part
2 that it is there. But I have seen the change; it is
3 gradual but it is very pronounced. I don't want to leave
4 the impression that because a man appears before the
5 Board and loses his case he is happy, but I do believe
6 that he is happy that he has been treated with dignity
7 and that he is the most important person in the world
8 when he sits on the other side of the table, and I am
9 happy that that is the philosophy of the Board at the
10 present time. I can talk about that.

11 Q. There has been some reference before
12 about a militaristic attitude that may reflect itself
13 on the claimants that appear before the Board or some
14 adverse affects on how they feel there. Do you have
15 any comment about that, sir?

16 A. Well I have been in the Navy so long
17 that I may not be able to identify what is military, but
18 I can emphatically say that I couldn't recognize anything
19 that is military at that Board. There is organization,
20 there is accuracy, and there is a demand for perfection
21 as Mr. MacDonald has said. Now if that military, I would
22 classify it, sir.

23 Q. I think the point rather was might
24 it inhibit or intimidate some claimant if confronted by
25 some military demeanor or perhaps attitude or something
26 of that nature?

27 A. There is no military demeanor, sir,
28 that is, in my opinion, none whatsoever.

29 Q. Also, sir, we asked Mr. Hamilton
30 about the question of the many early retirements since 1969.

1 I think they may number as many as 50. Now we inquired,
2 I think, whether there was any pattern he saw or did
3 that reflect some element of fear in the employees or
4 whether it was industrial ratings of employees. Do you
5 have any comment to make about that, sir?

6 A. No, sir, I have no comment. I don't
7 know -- I have only heard the figures since I have been
8 in this room during these hearings.

9 Q. Can you deal with your personal
10 experience then? Has there been any experience of yours
11 that would lead you to believe that there was some element
12 of fear that would cause some persons to leave?

13 A. Sir, I anticipated this question, and
14 this is why I started the paternalistic point. Within the
15 paternalistic society or organization, not by design but
16 by almost an automatic happening, there is an element of
17 fear and distrust created, and I repeat not by design.
18 Now if there is fear at the Board and so on this is my
19 own interpretation, this is the reasoning or this is the
20 cause. The symptoms are what we are talking about.

21 Q. I am sorry, I didn't really understand
22 that. I wonder if you could put that again for me.

23 A. In the family business -- I think
24 I can perhaps best demonstrate -- in the family business
25 where the manager is the owner, there is a feeling that
26 "My job was given to me by him;" he is directly connected
27 with the individuals and they feel because there is sort
28 of a family compact. Now I am not saying that that is
29 pronounced in the Board, I say that some of the symptoms
30 that we are seeking have resulted from that type of pattern.

1 It is not intentional.

2 Q. Do you feel there is some kind of
3 family compact unit that exists at the top that affects
4 itself on these other elements and the employees?

5 A. I have to say in fairness this
6 question was asked of the Board of itself and by Mr.
7 Legge by the way.

8 Q. Was it answered, sir?

9 A. Yes, I think we answered it to our
10 satisfaction and I say this is the process.

11 Q. How did you answer it, sir?

12 A. We answered it that every effort is
13 being made to see that there is no element of this within
14 the organization, although I think we sensed that there
15 was an indirect reaction because of it.

16 Q. When did this matter bring itself to
17 the attention of the Board?

18 A. I think perhaps this has been present
19 ever since -- that is conscious of the dangers of this
20 type of thing ever since I have been there. I don't know
21 before that.

22 Q. Did it bring itself to the attention
23 of the Board prior to the institution of events giving
24 rise to these hearings in the last four weeks?

25 A. Oh yes. I mean I am answering why
26 my discontent -- not discontent, my express concern. I
27 have been aware that this might be a cause of some of
28 the symptoms that we have been hearing about, talking
29 about, and this has been present for many days -- ever
30 since I have been there.

1 Q. You say efforts have been made to
2 prevent this situation existing?

3 A. That's right.

4 Q. Can you help us as to along what lines,
5 sir, these efforts are being made?

6 A. I think again Mr. MacDonald referred
7 to the weekly meetings. There are two types of meetings
8 at the Board and one is a meeting of the Board, the
9 Executive Meeting where we examine and discuss and resolve
10 any problems presented -- or try to. The other meeting
11 is the one where the principal officers report to the
12 Board weekly on their activities, their meetings with
13 important factions of the Committee, whether it be labour
14 or management and they present the happenings of the
15 week and this has been going on ever since I have been
16 there.

17 THE CHAIRMAN: Counsel, perhaps you can
18 continue with your questioning in the afternoon. We
19 are adjourning until 2:00 p.m.

20 You will note 2:00 p.m. The House is not
21 sitting today so we will be here at 2:00.

22 --- Upon adjourning at 12:00 noon.

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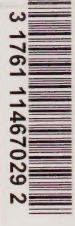
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